IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ALPESH Y. KOGJE,
CHIEF JUSTICE
&
HON'BLE SHRI JUSTICE VIVEK JAIN

WRIT PETITION No. 44909 of 2026

CNR No.: MPHC010798052026

DR SARVJEET SINGH AND ANR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Aditya Sanghi - Senior Advocate with Ms. Alka Singh, Ms. Vinita Ahuja and Ms. Nain Jyoti Noriya, - Advocates for petitioners.

Ms. Janhavi Pandit - Additional Advocate General with Shri R.D. Pararha - Govt. Advocate for State.

Shri Anoop Nair - Senior Advocate with Ms. Tanisha Khare - Advocate for respondent/ NMC.

Shri Siddharth Seth, Shri Amit Kumar Singh, Shri Atul Kumar Jain, Shri Dinesh Kumar Upadhyay, Shri Anubhav Singhal and Shri Parag Tiwari - Advocates for Intervenors.

Reserved on -18.11.2026

Pronounced on -26.11.2026

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ORDER

Per*: *Hon'ble Shri Justice Alpesh Y. Kogje, Chief Justice

The petitioners have invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India, challenging the State Merit List and Counselling Instructions (Annexure P/6), insofar as they provide for addition of incentive marks awarded to in-service candidates in the general open merit list. The petitioners contend that under Rule 14 of the Madhya Pradesh Chikitsa Shiksha Pravesh Niyam, 2018, such incentive marks can be utilized only for determining the inter se merit of in-service candidates for allocation of seats under the in-service quota and cannot be added to their merit for competing in the general open category. Accordingly, the petitioners seek quashment of the impugned action, re-determination of the State Merit List in accordance with the statutory rules and consideration of their candidatures under the fresh/non-in-service category solely on the basis of NEET-PG merit.

2. The petitioners are MBBS Graduate Doctors who appeared in the National Eligibility-cum-Entrance Test for Postgraduate courses (NEET-PG) for the relevant academic session. The petitioners are fresh/non-in-service candidates and are not entitled to service-based incentive marks.

3. The case of the petitioners is that while the State Government has provided a separate quota/allocation mechanism (such as 30% reserved/allocated seats for In-Service Candidates) under the applicable provisions, the respondents cannot merge the two distinct categories into a single competitive list by giving enhanced marks. The petitioners do not challenge any lawful benefit or weightage available to eligible In-Service Candidates within their designated quota/allocation; however,

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the petitioner challenges the manner in which the respondents have applied such incentive marks to the general merit list, severely prejudicing Fresh/Non-In-Service Candidates.

4. It is submitted on behalf of the petitioners that the respondents have added incentive marks granted to eligible In-Service Candidates directly into their raw NEET-PG scores and placed such candidates in the general combined State Merit List alongside Fresh/Non-In-Service Candidates. This application is contrary to the prescribed statutory scheme of seat allocation and the explicit provision of determining "परस्पर वरीयता" (inter se preference) among in-service candidates.

5. It is submitted that the State Government notified the Madhya Pradesh Chikitsa Shiksha Pravesh Niyam, 2018 in the M.P. Gazette Notification dated 09.03.2018. Under the notified Rules, specific provisions govern the admission and incentive criteria for In-Service Candidates. Specifically, the governing Rules contain the following statutory mandate regarding the inter se merit determination of In-Service Candidates:

> "नियोक्ता से अनापत्ति प्राप्त करने के पश्चात् पोर्टल पर पंजीयन करने वाले सेवारत अभ्यर्थी को मेडिकल काउंसिल ऑफ इण्डिया (MCI) / डेन्टल काउंसिल ऑफ इण्डिया (DCI) द्वारा समय-समय पर विनिर्दिष्ट अधिमान्य अंक देते हुए प्रवेश हेतु आबंटन के लिए उनका परस्पर वरीयता क्रम नियत किया जाएगा।"

it is submitted that a plain reading of the statutory phrase "परस्पर वरीयता क्रम नियत किया जाएगा"makes it unequivocally clear that the incentive/weightage marks specified by the MCI/NMC are meant to determine the inter se preference and merit among the In-Service Candidates themselves for the purpose of seat allocation within their reserved/allocated quota (e.g., the 30% quota under Rule 14(1)). The rule does not authorize or contemplate adding incentive marks to the

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raw NEET scores of In-Service Candidates for placing them over and above Direct/Fresh Candidates in the general open merit list.

6. The counsel for the Petitioner's principal contention is that the entitlement to compete under an in-service allocation mechanism and the entitlement to be placed in the open/general merit list are separate questions which must be determined strictly in accordance with the governing Rules. If the Rules provide a separate procedure for determining the merit, inter se preference or allotment of in-service candidates, the respondents cannot by-pass or render that procedure ineffective by adding service-based incentive marks and then merging the resulting positions into the open/general merit list.

7. It is argued on behalf of the petitioners that a comparative assessment reveals that in the neighbouring State of Chhattisgarh, there is no separate 30% institutional reservation/quota earmarked exclusively for in-service candidates. In those states, in accordance with the relevant Medical Council of India (MCI)/ National Medical Commission (NMC) regulations, in-service candidates are only granted incentive weight age marks of 10%, 20%, and 30% based on their respective length of service. Conversely, in the State of Madhya Pradesh, the respondents have not only implemented a 30% separate seat reservation for in-service candidates but are also simultaneously awarding them the additional 10%, 20%, and 30% incentive marks. This dual application results in an impermissible "double benefit", which artificially distorts the open competition pool and heavily prejudices the rights of direct/fresh candidates. Contrary to the statutory mandate of Rule 14, the respondents have also given double benefit to in-service candidate by adding incentive marks (10%, 20%, 30%) directly to the NEET-PG scores of in-

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service candidates and uploaded a single, merged State Merit List. This methodology has unlawfully altered the competitive field for direct/fresh candidates. It is further argued that practical impact of this illegal methodology is evident from the comparative merit list, where candidates with significantly lower All India Ranks (e.g., AIR 13,865, AIR 19,786, AIR 20,217) have been artificially boosted to State Merit Positions 1, 2, and 3 displacing candidates with far higher merit (e.g., AIR 333 placed at Position 4). The prejudicial impact of this flawed methodology has culminated in an absurd and legally unsustainable anomaly in the final merit list for the current academic session 2026. The respondents have released the final merit list wherein in-service candidates have once again been unlawfully merged into the general open merit list, strictly repeating the illegal modus operandi of the previous years.

8. It is argued that the methodology directly violates the express terms of the Gazette Notification dated 09.03.2018. The statutory rules explicitly state that incentive marks shall be given to in-service candidates for determining "उनका परस्पर वरीयता क्रम" (their inter se preference). The expression "परस्पर वरीयता" legally restricts the application of incentive marks to rank in-service candidates among themselves for filling the designated in-service quota and does not permit merging these inflated scores into the open/fresh candidate pool. The respondents have misinterpreted the concept of incentive marks and separate quota allocation incentive marks and seat allocation are distinct legal mechanisms. Where a separate allocation/quota (30%) is provided for in-service candidates, incentive marks are meant to regulate entry into that quota on the basis of "परस्पर वरीयता".

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Merging incentive marks awardee candidates into the general open merit list causes double benefit and arbitrarily penalizes direct/fresh candidates.

9. As against this, learned counsel for the answering respondent No.1 has raised a preliminary objection with regard to the maintainability of the instant petition, as the same has been filed belatedly, at the end of the first round of counseling, when the allotment of seats has already been carried out by the respondents on 29.10.2026 and the candidates are in the process of obtaining admission in the allotted medical colleges. The first round of NEET PG counseling began on 10.10.2026 with the profile creation and registration of the eligible candidates. The first round proceeded up to the allotment result declared on 29.10.2026 on the basis of which several students have taken admission in the allotted colleges, which was scheduled between 30.10.2026 to 10.11.2026. That the entire process of counseling is undertaken in an online system and in a transparent manner, while also adhering to the time line, so that the classes can be started on schedule.

10. The learned counsel for the respondent No.1 has also raised objection with respect to non-joinder of necessary parties. It is pertinent to mention here that the petitioners have not impleaded in-service candidates, who have already been allotted colleges in the first round of counseling as per the allotment result dated 29.10.2026. That, out of the said 23 candidates, 2 have already obtained admission in their allotted colleges on allotted seats from the open quota seats and any decision in the present *lis* will directly affect the said candidates who are therefore, necessary and proper parties**.** The National Medical Commission is also a necessary party in the instant petition as MCI Regulations of the year 2000 (as amended upto 2018) are framed by them. In the absence of impleadment of the

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said parties, the petition is liable to be dismissed at the threshold on the ground of non-joinder of necessary parties. However, the affected parties have already joined by intervention applications and National Medical Council has been joined by amendment.

11. It is also submitted by the learned counsel for respondent No.1 that the grant of incentive marks to in-service medical officers serving in rural, remote and difficult areas is founded upon a legitimate public purpose and is intended to strengthen the public healthcare delivery system in the State. The State faces persistent difficulties in ensuring the availability of qualified medical officers in rural, tribal, remote and difficult areas. Medical Officers posted in such areas discharge their duties in challenging conditions, often without the facilities and professional exposure ordinarily available in urban institutions. The incentive mechanism is, therefore, intended not merely to reward past service but also to encourage medical graduates to serve in underserved areas and thereby ensure the availability of medical facilities to the rural population.

12. It is further argued by learned counsel for the respondent No.1 that in the case of ***Tamil Nadu Medical Officers Association & Others v. Union of India & Others, (2021) 6 SCC 568***, the Constitution Bench of the Hon'ble Supreme Court recognized the importance of encouraging doctors to serve in remote and difficult areas. The Supreme Court observed that the concentration of doctors in urban areas and the neglect of rural areas necessitate an appropriate incentive mechanism. The Court further recognized that the incentive marks are linked to the marks obtained in NEET and are intended to acknowledge the experience and services rendered in notified remote and difficult areas. The provision for granting 30% reservation was

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incorporated following the judgment rendered in the case of Tamil Nadu Medical Officers Association (supra). The allocation is thus intended to encourage Government Medical Officers to improve their professional qualifications and ensure the availability of specialist medical services, particularly in public healthcare institutions.

13. It is also submitted by the learned counsel for the respondent No.1 that the provision of 30% quota/reservation for in-service candidate is stipulated in the M.P. Chikitsa Shiksha Pravesh Niyam, 2018, the provision with regard to grant of weightage/incentive marks to the in-service candidate is governed by Regulation 9(4) of Medical Council of India Post Graduate Medical Education Regulation 2000. Independently of the aforesaid allocation, the statutory framework has recognized the grant of incentive marks to eligible in-service doctors who have rendered service in rural, remote or difficult areas. The allocation of seats addresses the need to encourage doctors to remain in Government service, while the grant of incentive marks recognizes the hardship and public service associated with postings in rural, remote and difficult areas.

14. Learned counsel for the respondent No.1 has submitted that the reliance placed by the petitioner on Rule 14(5) of the M.P. Chikitsa Shikha Pravesh Niyam 2018 to contend that the provision only stipulates consideration of inter-se merit of in-service candidates (परस्पर वरीयता) and therefore, no common merit list can be prepared for candidates of open category and in service category, is entirely misconceived and baseless. The said rule though provides the stipulation of inter-se merit of the in-service candidates, however, does not govern the determination of merit between candidates of open category and in service category and therefore

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cannot be pressed into service to submit that the same prohibits the preparation of a common merit list. The expression "परस्पर वरीयता क्रम" does not, by itself, contain an express prohibition against considering the permissible incentive marks of eligible in-service candidates while determining their position in the State Merit List.

15. Learned counsel for the respondent No.1 has further submitted that the expression "inter se merit" cannot be interpreted in isolation or divorced from the purpose of the rule and the overall admission framework. The rules must be construed harmoniously, so as to give effect to the separate allocation of seats as well as the scheme for determining the merit of eligible in-service candidates. It is also submitted that the issue raised by the petitioners has been directly examined by the Division Bench of the Hon'ble Madras High Court in ***Dr. Gurubaran & Others v. Union of India & Others, W.P. Nos. 18430 and 18431 of 2023, decided on 14.08.2023***. In the aforesaid case, the petitioners challenged the policy of the State of Tamil Nadu providing separate allocation of seats to in-service doctors while simultaneously permitting such doctors to compete for open-category seats with the benefit of incentive marks. In paragraphs 36 to 40 of the judgment, the Court examined the object and scope of incentive marks and held that the marks awarded as incentives form an integral part of the merit of eligible in-service candidates under the then-applicable regulatory framework. The Court further held that there was no statutory prohibition under the regulations and State policy examined in that case against considering incentive marks while permitting eligible in-service candidates to compete for open-category seats.

16. It is argued by the learned counsel for the respondent No.1 that the practical experience gained by a medical officer can also form part of his merit and not

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merely his NEET score. The incentive marks granted to eligible in-service candidates form part of the process of determining their merit and cannot be treated as an independent or extraneous advantage. It submitted that the Madras High Court in *Dr. Gurubaran and other Vs. Union of India and others* further recognised that medical officers serving in rural, remote and difficult areas may be placed at a disadvantage in comparison with candidates who are able to devote their full attention to preparing for competitive examinations. The grant of incentive marks is intended to compensate for such disadvantages and encourage doctors to serve in areas where the availability of qualified medical professionals is crucial. The Counsel further submitted that the applicable State policy and counselling rules permit eligible in-service candidates to participate in the open category with the incentive marks lawfully earned by them, the same cannot be characterized as an impermissible encroachment into the open category. Because the incentive mechanism is a measure intended to recognize the nature and conditions of public service rendered by eligible candidates. The benefit is connected with the professional experience and hardship associated with service in notified areas. It is not a substitute for the NEET-PG examination nor does it dispense with the minimum qualifying marks or other eligibility conditions prescribed under the applicable Regulations. The Counsel also stated that the aforesaid order passed by the Madras High Court has been challenged by the petitioner therein - Dr. Gurubaran by way of SLP No(s).19241-19242/2023 before the Hon’ble Supreme Court. The Hon’ble Supreme Court has issued notice in the matter, but no interim relief has been granted.

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17. The learned counsel for the Respondent No. 01 also submitted that the Rule 14(8) of M.P. Chikitsa Shikha Pravesh Niyam 2018 mandates five years of service after completion of the postgraduate course, with a bond amount for breach, ensuring availability of specialist doctors in government healthcare institutions. Therefore, the thought behind providing the in-service candidates with incentive marks and reservation is that after completion of their post-graduation, they shall come back to their place of posting and serve their bond period at least, facilitating the public health welfare.

18. Learned counsel for the respondent No.3-NMC has submitted that the judgments in Gopal D.Tirthani and Satyabrata Sahu (supra) were delivered on the context of earlier Regulation 9 of the MCI Regulations, 2000. Subsequently, Regulation 9 was amended in 2018 and the relevant amended provision is Regulation 9(4) on the basis of which, present counseling is being conducted. The Regulations were further amended in the year 2023, which provides for a separate examination namely the National Exit Test, which would be applicable in future only when first batch becomes eligible for admission. But presently, current admission process is being conducted through NEET PG and governed under the Postgraduate Medical Education Regulations, 2000 as stood amended in the year 2018.

19. Learned counsel for the interveners submitted that the challenge in the writ petition is directed, inter alia, against the inclusion of incentive weightage granted to eligible in-service candidates in the determination of merit for State counselling. The petitioners seek re-drawing of the State Merit List and confining the benefit of incentive marks to inter-se preference within the in-service source. If such relief is

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granted, the existing merit positions and allotments of the applicants may be altered and they may suffer displacement or loss of the allotted college and subject/stream. Their interest is, therefore direct, present and substantial and not merely academic or contingent. The first-round counselling commenced on 10.10.2026, the allotment result was declared on 29.10.2026 and the interim order referred to in the intervention application was passed on 02.11.2026, after declaration of allotments. The applicants approached the Court at the earliest opportunity after becoming aware of the proceedings and the interim order. The allotment letters annexed with the application demonstrate that seats had in fact been allotted to applicants, including allotments in Government Medical Colleges.

20. The Court may in tabular form give the bare minimum details of the cases of the intervenors in following table:-

Intervention application No.	Intervenor	Main Reliefs Claimed
18427	Dr Sushant Shrivastava	-to permit the present intervener to intervene in the matter, in the interest of justice.
26055	Dr Shivam Singh Baghel Mohd Aamir	-Allow the present application and permit the Applicants to intervene in the present writ petition; alternatively, implead the Applicants as respondent parties under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure, 1908. -Take on record the Applicants' documents relating to their in-service status, qualifying rural/remote/difficult-area service, NEET-PG 2026 score, State merit position and allotment of seats in Government Medical Colleges; -Hear the Applicants before passing any further interim or final order which may alter, cancel, disturb or adversely affect their merit position, allotment or admission in a Government

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		Medical College;
26096	Dr Abhishek Modi, Dr Harshit Gupta, Dr Pawan Kumar Deepankar, Dr Shivam Kumar Dubey, Dr Angiras Sahu	-Allow the applicants to be impleaded as proposed respondents and to appear and be heard in W.P. No. 44909 of 2026; -Modify the interim direction in paragraph 10 of the order dated 02.11.2026 so that it does not apply to in-service candidates already allotted, reported or admitted, and does not displace any admitted student; -Direct that the admissions and allotments already made in the First Round of the MP State Combined NEET PG Counselling 2026 shall not be disturbed pending the final decision of this petition; -Direct that the petition be dismissed as not maintainable for non- joinder of the in-service candidates whose entries appear in the Merit List dated 21.10.2026 and the Revised Merit List dated 27.10.2026, all of whom would be affected by any order in it; -Dismiss the writ petition as against the applicants and in its entirety;
26398	Dr Harsh Singh Chauhan	-Allow the present application and permit the Applicant to intervene in the present writ petition alternatively, implead the Applicant as respondent parties under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure, 1908; -Take on record the Applicant documents relating to their in-service status, qualifying rural/remote/difficult-area service, NEET-PG 2026 score, State merit position and allotment of seats in Government Medical Colleges; -To hear the Applicants before passing any further interim or final order which may alter, cancel, disturb or adversely affect their merit position, or admission in a Government Medical College.
26432	Dr Shivani Soni, Dr Ragini, Dr Sarasti	-Allow the present application and permit the Applicant to intervene in the present writ petition alternatively, implead the Applicant as respondent parties under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure, 1908; -Take on record the Applicant documents relating to their in-service status, qualifying rural/remote/difficult-area service,

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	Sharma, Dr Arjun Shrivastava, Dr Bhuvnesh Kumar, Dr Junaid Khan, Dr Shankar Lal Samaota	NEET-PG 2026 score, State merit position and allotment of seats in Government Medical Colleges; -To hear the Applicants before passing any further interim or final order which may alter, cancel, disturb or adversely affect their merit position, or admission in a Government Medical College;

21. Learned counsel for the interveners also submitted that the petitioners have filed the writ petition after the counselling and allotment of seats. They have not challenged Regulation 9(4), Rule 14 of the Madhya Pradesh Chikitsa Shiksha Pravesh Niyam, 2018 or the State policy and notifications. The expectation, therefore, rests on Rules that remain valid and operative. Rules of the game cannot be changed midway. The admission process for 2026-27 was conducted under a settled framework: Regulation 9(4) of the PG Medical Education Regulations, 2000, Rule 14 of the M.P. Chikitsa Shiksha Pravesh Niyam, 2018 (as substituted on 26.07.2022) and the State policy dated 28.02.2019. The framework governs the in-service source of entry, the incentive weightage and the preparation of the State Merit List. NEET-PG 2026 has been held, the State Merit List has been published, first-round counselling began on 10.10.2026, and allotment results were declared on 29.10.2026. Candidates have since begun reporting and taking admission. The petitioners now seek to recast the merit list and restrict incentive marks to inter se preference, after the examination, counselling and allotment. This would change the method of computing merit after the process has run its course. The Regulation,

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the Rules and the 2019 policy have been in force for years. The Petitioners knew how merit would be computed and how in-service candidates would be treated, and could have challenged them before the examination or at the start of counselling. The petitioners instead came to Court when counselling had substantially progressed and allotments had been made. Relief under Article 226 is discretionary and should be refused for delay and acquiescence, especially in a time-bound admission cycle where unsettling allotments harms institutions and third parties. Not all in-service candidates who have already been allotted colleges are before this Hon'ble Court. The petitioners have not challenged the Regulation, the Rules or the policy themselves.

22. Learned counsel for the interveners also submitted that Rule 14 of the Madhya Pradesh Chikitsa Shiksha Pravesh Niyam, 2018, as amended, and Regulation 9(4) of the Postgraduate Medical Education Regulations, 2000, as amended, are related to the controversy. The substituted Rule 14(1), notified on 26.07.2022, provides for a 30 per cent source/allocation in degree seats for eligible registered in-service candidates who have rendered a minimum of three years' service in rural, remote or difficult areas. Rule 14(5) provides for preference/weightage in the in-service admission framework, while Rule 14(8) requires admitted in-service doctors to render five years' compulsory service after completion of the postgraduate course, failing which the bond amount of 250 lakh is payable. The proviso to Regulation 9(4) expressly permits the Government/competent authority, while determining the merit of candidates in Government/public authority service, to grant incentive weightage at the rate of 10 per cent of the NEET marks for each year of service in remote and/or difficult or

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rural areas, subject to a maximum of 30 per cent. The Applicants submit that the in-service source under Rule 14 and the incentive weightage under the proviso to Regulation 9(4) are related but distinct components and both should be harmoniously construed. Rule 14(1) identifies the eligible source of seats and prescribes a minimum three-year service threshold. Regulation 9(4), in contrast, recognises qualifying service through incentive weightage in determining merit, subject to the prescribed ceiling. The existence of a separate in-service source does not, by itself, render the independent regulatory provision for incentive weightage otiose. The provisions are required to be read harmoniously, giving effect to each within its respective field in order to achieve the underlying objective.

23. Learned counsel for the petitioners in his rejoinder has submitted that the petitioners are not challenging the entitlement of eligible in-service candidates to receive incentive marks under Regulation 9(4) of the Postgraduate Medical Education Regulations, 2000. The petitioners accept that eligible in-service candidates may receive the incentive marks prescribed under the applicable regulations and policy. The limited grievance is that such incentive marks must be applied in the manner contemplated by the applicable Madhya Pradesh Rules and cannot be used by the Respondents to alter the merit position of fresh/non-in-service candidates in the open category contrary to the governing admission framework. It is also submitted that the respondents have attempted to give an impression that the Petitioners are opposing the recognition of rural and remote service rendered by in- service doctors. Such an interpretation is wholly incorrect. The Petitioners have no objection to the grant of lawful incentive marks to eligible in-service candidates. The Petitioners only seek enforcement of the applicable

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Rules in their letter and spirit, particularly the provision relating to determination of the inter-se merit of in-service candidates under Rule 14(5).

24. The Court heard the learned counsels for the parties and perused the record.

25. The case of the petitioners is that they have appeared and cleared NEET PG-2026 as fresh/non-service candidates. The grievance as raised by the petitioners in the instant petition is that under the applicable provisions of law, namely, Rule 14 of the M.P. Chikitsa Shiksha Pravesh Niyam, 2018, separate quota allocation mechanism (30% seats reserved/allocated for in-service candidates working in Rural/remote/difficult areas) is provided for in-service candidates. Additionally, the in-service candidates are also awarded weightage/incentive marks up to 30% as per the length of their service. It is submitted by the Petitioner that the Respondent authorities by adding weightage/ incentive marks to the NEET score awarded to in service candidate, prepares a common merit list, which cannot be done as to they are two distinct categories of candidates. It is contended that the in-service candidates get double benefits of 30% quota and weightage/incentive marks, and they are also encroaching in the open category, available exclusively for Open/non-service candidates, which is impermissible as per Rule 14 of the Rules of 2018 which creates a separate quota for in service candidates. It stipulates that inter-se seniority of 'the in-service candidates shall be determined after awarding them incentive marks for allotment. In other words, the Petitioners submit that the Rules do not authorize the methodology adopted for preparing the common merit list in the aforesaid manner, which results in grant of double benefit to the in-service candidates inasmuch as they become entitled to 30% incentive/weightage marks as well as 30% quota/reservation on the total number of State seats.

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Addition of incentive marks to the raw NEET score improves the merit position of the in-service candidates who steal a march over the Open category/non-service category candidate, significantly lowering their chance of getting a good medical seat.

26. The admission to the Post Graduate Medical Degree/Diploma courses in the State of M.P. is undertaken on the basis of the Rules namely M.P. Chikitsa Shiksha Pravesh Niyam, 2018. The provision of grant of 30% reservation was incorporated in the 2018 Rules by way of amendment dated 05.10.2021 in Rule 14 (1). Rule 14 as amended in 2021 is reproduced herein below: -

> "**14. सेवारत अभ्यर्थियों के लिये प्रोत्साहन**,-
>
> सेवारत अभ्यर्थी/चिकित्सा **शिक्षा** विभाग के अन्तर्गत शासकीय चिकित्सा डिमोन्सट्रेटर/ट्यूटर/मेडिकल ऑफिसर अभ्यर्थियों के लिये **प्रोत्**साहन.
>
> (1) शासकीय एवं निजी **चिकित्**सा/दंत चिकित्सा महाविद्यालयों में उपलब्ध समस्त विधाओं की डिग्री सीटों की रिक्तियों पर **अर्हत्ताधारी** पंजीकृत सेवारत अभ्यर्थी/चिकित्सा शिक्षा विभाग के **अन्तर्गत** कार्यरत् डिमोन्सट्रेटर/ट्यूटर/मेडिकल ऑफिसर हेतु 30 प्रतिशत आरक्षण रहेगा
>
> (2) उप-नियम (1) की रिक्तियों पर श्रेणीवार आरक्षण के संबंध में नियम 4 (1) में वर्णित प्रावधान लागू होंगे.
>
> (3) उप-नियम (1) की रिक्तियों में से महिला प्रवर्ग एवं दिव्यांग प्रवर्ग के आरक्षण के संबंध में संशोधित नियम 4 (2) में वर्णित प्रावधान लागू होंगे.
>
> (4) अभ्यर्थी का प्रवेश वर्ष की नीट पी.जी. उत्तीर्ण होना अनिवार्य है.
>
> (5) नियोक्ता से अनापत्ति प्राप्त करने के पश्चात् पोर्टल पर पंजीयन करने वाले स्वास्थ्य विभाग के सेवारत अभ्यर्थी को मेडिकल काउंसिल ऑफ इण्डिया (MCI) / डेन्टल काउंसिल ऑफ **इण्डिया** (DCI) द्वारा समय-समय पर विनिर्दिष्ट **अधिमान्य** अंक देते हुए प्रवेश हेतु आबंटन के लिए उनका **परस्पर** वरीयता क्रम नियत किया जाएगा
>
> (6) सेवारत चिकित्सों को **अनापत्ति** प्रमाण-पत्र जारी करने की शर्त, पात्रता, अधिमान अंक दिया जाना, स्पॉन्सरशिप एवं चयन आदि के मापदण्ड मध्यप्रदेश शासन का लोक स्वास्थ्य एवं **परि**वार कल्याण विभाग समय- समय पर **निर्धारित** कर सकेगा जिसे स्वास्थ्य विभाग के पोर्टल पर प्रदर्शित किया जाएगा. चयनित पात्र चिकित्सकों की सूची काउंसलिंग प्रारंभ होने से 7 दिवस पूर्व संचालनालय, स्वास्थ्य सेवायें द्वारा संचालनालय, चिकित्सा **शिक्षा** को पी. जी. काउंसलिंग में शामिल किये जाने हेतु **उपलब्ध** करायेगा.

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(7) चिकित्सा शिक्षा के अन्तर्गत कार्यरत डिमोन्सट्रेटर/ट्यूटर/मेडिकल ऑफिसर जिन्हें अध्ययन अवकाश की पात्रता है एवं संबंधित

महाविद्यालय के अधिष्ठाता/प्राचार्य के द्वारा उसे अनापत्ति प्रमाण-पत्र जारी किया गया हो, वे ही आरक्षण के लाभ के लिये पात्र होंगे. संबंधित चिकित्सा/दंत चिकित्सा महाविद्यालय उक्त चयनित चिकित्सकों की सूची पीजी काउंसलिंग प्रारंभ होने से 7 दिवस पूर्व संचालनालय, चिकित्सा शिक्षा को पीजी काउंसिलिंग में शामिल किये जाने हेतु उपलब्ध करायेगा.

(8) सभी प्रवेशित सेवारत चिकित्सक/चिकित्सा शिक्षा के अन्तर्गत कार्यरत डिमोन्सट्रेटर/ट्यूटर/मेडिकल ऑफिसर को पाठ्यक्रम पूर्ण करने के पश्चात् 05 वर्ष का अनिवार्य सेवा करनी होगी. बॉण्ड के अन्तर्गत 05 वर्ष की सेवा न करने पर बॉण्ड राशि रु. 50 लाख जमा करने होंगे."

Thus, initially 30% reservation was given to the in-service candidates working in Health Department and to the Demonstrator/Tutors/Medical Officers in the Medical Education Department. The said Rule 14(1) was further amended by way of substitution vide Gazette Notification dated 26.07.2022. The amended Rule 14 reads as under:

उक्त नियमों में, नियम 14 में,-

1. निम्नलिखित प्रारंभिक पैरा का लोप किया जाए, अर्थात् :-

"सेवारत अभ्यर्थी/चिकित्सा शिक्षा विभाग के अन्तर्गत शासकीय चिकित्सा /दंत चिकित्सा महाविद्यालयों में कार्यरत डिमोन्सट्रेटर/टयूटर/मेडिकल आफिसर अभ्यर्थियों के लिये प्रोत्साहन" का लोप किया जाये.

2. उप-नियम (1) के स्थान पर, निम्नलिखित उप-नियम स्थापित किया जाए, अर्थात् :-

"(1) शासकीय एवं निजी चिकित्सा / दंत चिकित्सा महाविद्यालयों में उपलब्ध समस्त विधाओं की डिग्री सीटों की रिक्तियों (Vacancies) पर अर्हताधारी पंजीकृत सेवारत अभ्यर्थियों जिनके द्वारा ग्रामीण / दूरस्थ / कठिन (Rural/Remote/Difficult area) स्थानों में न्यूनतम 03 वर्ष की अवधि की सेवा प्रदान की हो, के लिये 30 प्रतिशत सीटों का कोटा रहेगा.".

3. उप-नियम (7) को लोप किया जाए.

4. उप-नियम (8) के स्थान पर, निम्नलिखित उप-नियम स्थापित किया

जाए, अर्थात् :-

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> "(8) सभी प्रवेशित सेवारत चिकित्सकों को स्नातकोत्तर पाठ्यक्रम पूर्ण करने के पश्चात् 05 वर्ष की अनिवार्य सेवा करनी होगी. बॉण्ड के अन्तर्गत 05 वर्ष की सेवा न करने पर बॉण्ड राशि रु. 50 लाख जमा करने होंगे.".

The amended prevailing rule stipulates that 30% seats would be reserved for the in-service candidates working in Rural/Remote/ Difficult areas at least for minimum of 3 years. Rule 14 (8) of the Chikitsa Shiksha Pravesh Niyam, 2018 is particularly relevant as the in-service candidates, after the completion of their PG courses are required to serve a compulsory bond of 5 years with the government. This ensures that their services are retained with the rural health centres and the experience and expertise gained during the PG course is applied by them in treating the patients of the rural section of the society. It is also pertinent to mention here that several medical officers proceed for PG courses by taking study leave and thereafter return to serve their respective health centres, thus providing their invaluable services to the public health sector in the villages and tribal areas. Two distinct benefits, one granted under the rules framed by the State and the other on the basis of the Regulation applicable on all States. Regulation 9(4) of the MCI Regulations 2000, is not under challenge in the instant petition.

27. Regulation 9(4) of MCI Regulations 2000 stipulates as below: -

> *"9(4) The reservation of seats in Medical Colleges/institutions for respective categories shall be as per applicable laws prevailing in States/Union Territories. An all India merit list as well as State-wise merit list of the eligible candidates shall be prepared on the basis of the marks obtained in National Eligibility-cum-Entrance Test and candidates shall be admitted to Postgraduate Courses from the said merit lists only.*
>
> *Provided that in determining the merit of candidates who are in service of government/public authority, weightage in the marks may be given by the Government/Competent Authority as an incentive upto 10% of the marks obtained for each year of service in remote and/or difficult areas or Rural areas upto maximum of 30% of the marks obtained in National Eligibility-cum Entrance Test.*

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The remote and/or difficult areas or Rural areas shall be as notified by State Government/Competent authority from time to time."

Regulation 9(8) of the MCI Regulation stipulates as under: -

"9(8) 50% of the seats in Postgraduate Diploma Courses shall be reserved for Medical Officer in the Government service, who have served for at least three years in remote and /or difficult areas and/or Rural areas. After acquiring the Postgraduate Diploma, the Medical Officers shall serve for two more years in remote and /or difficult areas and / or Rural areas as defined by State Government/ Competent authority from time to time."

The said regulations framed by the apex expert body in the country is applicable and binding on all the States. That the substantive provision lays down that the merit list is to be prepared on the basis of NEET marks, while the proviso functions to permit a specified adjustment to NEET marks for a particular class of candidates i.e. in-service candidates. The proviso thus has to be read in context of the second part of the main provision, namely, the determination of merit and preparation of merit lists. Therefore, the proviso modifies the method of determining merit; it does not dispense with merit-based admission. The proviso thus is required to be read harmoniously with the main provision and both can operate together by preparation of a common merit list. The proviso does not state that incentive marks shall be considered only when comparing one in-service candidate against another in-service candidate.

28. The 30% quota/reservation on the total number of seats is admissible only to the in-service candidate who have worked for 3 years in the rural/remote/difficult areas, in addition to the 30% weightage/ incentive marks. Whereas, the candidates having worked for less than 3 years i.e. for 1 or 2 years are entitled only to 10% and 20% weightage/ incentive marks respectively, but are not entitled for 30% quota/reservation. Thus, the candidates obtaining 10% & 20% incentive marks are

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entitled to compete in the open category only as they do not get benefit of 30% quota. Thus weightage/incentive marks are awarded in the following manner to the in-service candidates: -

(a) 10% - 1 year

(b) 20% - 2 year

(c) 30% - 3 year (in addition to 30% quota/reservation)

The State Government, Public Health and Family Welfare Department, has framed policy dated 28/02/2019 prescribing the grant of incentive marks to in-service doctors working in rural/remote/difficult areas provided in the schedules appended to the policy. The relevant part of the policy is extracted below: -

> कमांक एफ 14-01/2019/सत्रह/मेडि-1: राज्य शासन एतद राष्ट्रीय परीक्षा बोर्ड द्वारा आयोजित प्री.पी.जी. प्रवेश परीक्षा "राष्ट्रीय पात्रता सह प्रवेश परीक्षा" (नीट पी.जी.) द्वारा चयनित लाक स्वास्थय एवं परिवार कल्याण विनाग में कर्वरत चिफिस्सका हेतु सनमकोत्तरडिग्री/डिंप्लोमा तथा दंत स्नातकोत्तर डिम्री पाठ्यक्रम में सेवारत अम्यार्थी के रूप में अंतिरिक्त अंक प्रदान करने की पात्रता निम्न शर्तों एवं दिशा-निर्देशों के अनुरूप प्रदान करता है :-
>
> 1. सेवारत अभ्यार्थी वे अभ्यार्थी होंगे जो मध्यप्रदेश शासम के लोक स्वास्थ्य एवं परिवार कल्याण विभाग अथवा किसी विभाग अथवा राज्य/जिला स्वास्थ्य समिति के अन्तर्गतनियमित अथवा संविदा में निरंतर कार्यरत हैं।
>
> 2. सेवारत अभ्यर्थी का लाभ निम्नांकित मापदण्ड अनुसार अनुसूची (1) एवं (2) में वर्णित "ग्रामीण/दूरस्थ एवं कठिन क्षेत्र" में स्थित संस्थओं हेतु प्रदाय किया जावेगा: -
>
> (अ) अनुसूची (1) में उल्लेखित 89 आदिवासी विकास खण्डों में स्थित समस्त स्वास्थ्य सेवाऐं।
>
> (ब) अनुसूची (2) में उल्लेखित सामान्य क्षेत्रों के लिए-
>
> सामान्य क्षेत्र के विकास खण्डों में स्थित समस्त सिविल अस्पताल, सामुदायिक स्वास्थ्य केन्द्र एवं प्राथमिक स्वास्थ्य केन्द्र जो-
>
> (1) नगर निगम एवं नगर पालिका सीमा में स्थित न हो।
>
> (II) नगर निगम मुख्यालय के "शून्य" मील के पत्थर से 25 किलोमीटरकी दूरी के अंदर स्थित न हो।

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(III) नगर पासिका मुख्यालय के "शून्य" मील के पत्थर से 10 किनोमीटर की दूरी के अंदर स्थित न हो।

उपरोक्त अनुसूची (1) एवं अनुसूची (2) में निहित शर्तें पूर्ण करने वाली संस्थाओं की अद्यतन सूची में आयुक्त, स्वास्थ्य सेवायें यथासमय संस्थाओं के उन्नयन/स्वीकृति उपरांत इसमें परिवर्तन कर सकेंगे।

xxx

xxx

xxx

(3.3) भारतीय चिकित्सा परिषद के पोस्ट ग्रेज्युएट मेडिकल एज्यूकेशन रेग्यूलेशन, 2000 संशोधित मई 2018 की कंडिका-9 (4) में दिये निर्देश के परिपालन में नियम 3 (अ) एवं 3 (य) अनुसार संस्थाओं में सेवारत अभ्यार्थी को अर्हता अनुसार "राष्ट्रीय मात्रता सह प्रवेश परीक्षा" (नीट) के प्राप्तांक का 10 प्रतिशत प्रति वर्ष के मान से प्राप्तांकों का अधिकतम 03 वर्ष के 30 प्रतिशत अंक का भारांश दिया जायेगा । भारतीय चिकित्सा परिषद द्वारा समय-सम्य पर जारी संशोधन अनुसार भारांश प्रदान किया जा सकेगा।

29. The amended Regulation 9(4) of MCI Regulation 2000, materially differs from the earlier regulatory framework considered by the Hon'ble Supreme Court in the case of ***State of MP. v. Gopal D. Tirthani, (2003) 7 SCC 83***. The case of Gopal D. Tirthani recognized that the allocation of PG seats to in-service doctors as separate source of admission is constitutionally valid and also observed that reasonable weightage for rural and tribal service is permissible to encourage doctors to serve in underserved areas. The position of law considered in the case of Gopal D. Tirthani substantially changed with the amendment in the MCI Regulations 2000, especially Regulation 9(4), which recognized and referred to selection on the basis of inter-se academic merit and contemplated a distinct treatment of in-service candidates. The amended Regulation 9(4), however, expressly provides for preparation of merit lists on the basis of NEET marks and separately recognizes the grant of incentive weightage to eligible in-service candidates, as integral part of merit of a candidate i.e. merit under the amended Regulations includes both raw NEET marks as well as incentive marks awarded to

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in-service candidates as per their length of service in remote/difficult/rural areas. Thus, the judgment heavily relied upon by the petitioner, ***State of MP. v. Gopal D. Tirthani, (2003) 7 SCC 83,*** is not applicable in the present case as it was dealing with the unamended MCI Regulations 2000, particularly Regulation 9, and also, the fact that it was dealing with the allotment of seats on the basis of academic merit to the in- service candidates which does not include the experience of in-service candidates who have worked in remote/difficult/rural areas as against "merit" in the amended MCI Regulations, 2000, which includes experience of working in a remote/difficult/rural areas.

30. There are two distinct statutory mechanisms under two different rules. Rule 14 (1) of the Madhya Pradesh Chikitsa Shiksha Pravesh Niyam, 2018 (as amended on 26.07.2022) provides 30% quota to eligible in-service candidates, whereas Regulation 9(4) of the MCI Postgraduate Medical Education Regulations, 2000 independently permits incentive weightage for service in notified rural, remote and difficult areas. The grant of incentive marks is also stipulated in the provisions contained in Rule 14 (5) and 14 (6) of Madhya Pradesh Chikitsa Shiksha Pravesh Niyam, 2018 (as amended on 05.10.2021). The analogy as stipulated in Regulation 9(8) of the MCI Regulations 2000, for reserving seats for Post Graduate Diploma courses for Medical Officers serving for at least 3 years, is adopted in the State rules for reserving 30% quota for eligible in-service candidates. Thus, the State Government has not acted against the MCI Regulations 2000 rather acted in consonance with the Regulations framed by apex body in medical education.

31. Incentive marks form part of merit. Regulation 9(4) expressly permits weightage of 10% for each year of qualifying service, subject to a maximum of

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30% of NEET-PG marks, while determining the merit of eligible in-service candidates, which has already been upheld by Apex Court in the case of ***State of Uttar Pradesh vs Dinesh Singh Chouhan,*** **(2016) 9 SCC 749** in the following relevant paras: -

> ***"28.*** *In Students' Union v. Aiims [Students' Union v. Aiims, (2002) 1 SCC 428 : 1 SCEC 886], this Court was called upon to examine the question whether seats earmarked for institutional candidates do or do not result in reservation in the sense in which it is understood in the Constitution. After examining earlier decisions on the point, this Court in para 59, noticed the distinction between undergraduate level education which is a primary or basic level of education in Medical Sciences. The Court held that institutional reservation is not supported by the Constitution or constitutional principles. However, a certain degree of preference for students of the same institution is permissible without making an excessive or substantial departure from the rule of merit and equality. Further, it has to be kept within the limits, minimum standards and merit cannot be diluted as to become practically non-existent.*
>
> ***29.*** *In the present case, we have held that providing 30% reservation to in-service candidates in postgraduate "degree" courses is not permissible. It does not, however, follow that giving weightage or incentive marks to in-service candidates for postgraduate "degree" courses entails in excessive or substantial departure from the rule of merit and equality. For, Regulation 9 recognises the principle of giving weightage to in-service candidates while determining their merit. In that sense, incentive marks given to in-service candidates is in recognition of their service reckoned in remote and difficult areas of the State, which marks are to be added to the marks obtained by them in NEET. Weightage or incentive marks specified in Regulation 9 are thus linked to the marks obtained by the in-service candidate in NEET and reckon the commensurate experience and services rendered by them in notified remote/difficult areas of the State. That is a legitimate and rational basis to encourage the medical graduates/doctors to offer their services and expertise in remote or difficult areas of the State for some time. Indisputably, there is a wide gap between the demand for basic health care and commensurate medical facilities, because of the inertia amongst the young doctors to go to such areas. Thus, giving specified incentive marks (to eligible in-service candidates) is permissible differentiation whilst determining their merit. It is an objective method of determining their merit.*
>
> ***30.*** *Coming to the next decision pressed into service in State of M.P. v. Gopal D. Tirthani [State of M.P. v. Gopal D. Tirthani, (2003) 7 SCC 83 : 2 SCEC 301], it was a case of conducting separate entrance test for in-service candidates. That*

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was frowned upon by this Court. The Court, however, suggested modality of preparing two separate merit list for the two categories and merit inter se of the successful candidates to be assessed separately in the two respective categories. The Court had examined the question as to whether weightage can be given to doctors for having rendered specified number of years of service in rural/tribal areas to determine the inter se merit. The Court analysed four earlier decisions of this Court; to wit, Dinesh Kumar v. Motilal Nehru Medical College [Dinesh Kumar v. Motilal Nehru Medical College, (1986) 3 SCC 727] , Snehelata Patnaik v. State of Orissa [Snehelata Patnaik v. State of Orissa, (1992) 2 SCC 26 : 1992 SCC (L&S) 401 : (1992) 20 ATC 187] , Narayan Sharma v. Pankaj Kr. Lehkar [Narayan Sharma v. Pankaj Kr. Lehkar, (2000) 1 SCC 44 : 1 SCEC 832] and State of U.P. v. Pradip Tandon [State of U.P. v. Pradip Tandon, (1975) 1 SCC 267 : 1 SCEC 263] . The Court in para 33 observed thus: (Tirthani case [State of M.P. v. Gopal D. Tirthani, (2003) 7 SCC 83 : 2 SCEC 301] , SCC p. 106)

"33. ... The case at hand presents an entirely different scenario. Firstly, it is a case of postgraduation within the State and not an all-India quota. Secondly, it is not a case of reservation, but one of only assigning weightage for service rendered in rural/tribal areas. Thirdly, on the view of the law we have taken hereinabove, the assigning of weightage for service rendered in rural/tribal areas does not at all affect in any manner the candidates in open category. The weightage would have the effect of altering the order of merit only as amongst the candidates entering through the exclusive channel of admissions meant for in-service candidates within the overall service quota. The statistics set out in the earlier part of the judgment provide ample justification for such weightage being assigned. We find merit and much substance in the submission of the learned Advocate General for the State of Madhya Pradesh that Assistant Surgeons (i.e. medical graduates entering the State services) are not temperamentally inclined to go to and live in villages so as to make available their services to the rural population; they have a temptation for staying in cities on account of better conditions, better facilities and better quality of life available not only to them but also to their family members as also better educational facilities in elite schools which are to be found only in cities. In-service doctors being told in advance and knowing that by rendering service in rural/tribal areas they can capture better prospects of earning higher professional qualifications, and consequently eligibility for promotion, acts as a motivating factor and provides incentive to young in-service doctors to opt for service in rural/tribal areas. In the set-up of health services in the State of Madhya Pradesh and the geographical distribution of population, no fault can be found with the principle of assigning weightage to the service rendered in rural/tribal areas while finalising the merit list of successful in-service candidates for admission to PG courses of studies. Had it been a reservation, considerations would have differed. There is no specific challenge to the quantum of weightage and in the absence of any material being

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available on record we cannot find fault with the rule of weightage as framed. We hasten to add that while recasting and reframing the rules, the State Government shall take care to see that the weightage assigned is reasonable and is worked out on a rational basis."

(emphasis supplied)

xxx xxx xxx

33. *As aforesaid, the real effect of Regulation 9 is to assign specified marks commensurate with the length of service rendered by the candidate in notified remote and difficult areas in the State linked to the marks obtained in NEET. That is a procedure prescribed in the Regulation for determining merit of the candidates for admission to the postgraduate "degree" courses for a single State. This serves a dual purpose. Firstly, the fresh qualified doctors will be attracted to opt for rural service, as later they would stand a good chance to get admission to postgraduate "degree" courses of their choice. Secondly, the rural healthcare units run by the public authority would be benefited by doctors willing to work in notified rural or difficult areas in the State. In our view, a Regulation such as this subserves larger public interest. Our view is reinforced from the dictum in Snehelata Patnaik case [Snehelata Patnaik v. State of Orissa, (1992) 2 SCC 26 : 1992 SCC (L&S) 401 : (1992) 20 ATC 187]. The three-Judge Bench by a speaking order opined that giving incentive marks to in-service candidates is inexorable. It is apposite to refer to the dictum in the said decision which reads thus: (SCC pp. 26-27, paras 1-2)*

"1. We have already dismissed the writ petition and special leave petitions by our order dated 5-12-1991. We would, however, like to make a suggestion to the authorities for their consideration that some preference might be given to in-service candidates who have done five years of rural service. In the first place, it is possible that the facilities for keeping up with the latest medical literature might not be available to such in-service candidates and the nature of their work makes it difficult for them to acquire knowledge about very recent medical research which the candidates who have come after freshly passing their graduation examination might have. Moreover, it might act as an incentive to doctors who had done their graduation to do rural service for some time. Keeping in mind the fact that the rural areas had suffered grievously for non-availability of qualified doctors giving such incentive would be quite in order. The learned counsel for the respondents has, however, drawn our attention to the decision of a Division Bench of two learned Judges of this Court in Dinesh Kumar v. Motilal Nehru Medical College [Dinesh Kumar v. Motilal Nehru Medical College, (1986) 3 SCC 727]. It has been observed there that merely by offering a weightage of 15% to a doctor for three years' rural service would not bring about a migration of doctors from the urban to rural areas. They observed that if you want to produce doctors

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who are MD or MS, particularly surgeons, who are going to operate upon human beings, it is of utmost importance that the selection should be based on merit. The learned Judges have gone on to observe that no weightage should be given to a candidate for rural service rendered by him so far as admissions to postgraduate courses are concerned (see Dinesh Kumar case [Dinesh Kumar v. Motilal Nehru Medical College, (1986) 3 SCC 727], SCC para 12 at p. 741).

2. In our opinion, this observation certainly does not constitute the ratio of the decision. The decision is in no way dependent upon these observations. Moreover, those observations are in connection with all-India selection and do not have equal force when applied to selection from a single State. These observations, however, suggest that the weightage to be given must be the bare minimum required to meet the situation. In these circumstances, we are of the view that the authorities might well consider giving weightage up to a maximum of 5% of marks in favour of in-service candidates who have done rural service for five years or more. The actual percentage would certainly have to be left to the authorities. We also clarify that these suggestions do not in any way confer any legal right on in-service students who have done rural service nor do the suggestions have any application to the selection of the students up to the end of this year."

(emphasis supplied)

xxx *xxx* *xxx*

40. *The matter does not end here. In the present proceedings, however, large number of candidates who earlier found place in the merit list have been affected by the fresh merit list prepared in terms of order of this Court dated 12-5-2016 [State of U.P. v. Dinesh Singh Chauhan, SLP (C) No. 13832 of 2016, order dated 12-5-2016 (SC)] . As a result of giving effect to Regulation 9, the fresh list has thrown up a different argument for consideration. The in-service candidates who had secured relatively less marks in NEET have been placed high up in the order of merit consequent to addition of incentive marks @ 10% of the marks for each year of service in the remote and/or difficult areas up to the maximum of 30% of marks obtained in NEET (CET). We find merit in the submission of Mr Dwivedi, learned Senior Counsel, that the rights of such candidates to be considered for admission, is not affected. What is affected is the opportunity to get admission in a college or subject of their choice. There can, however, be no right to get the subject or college of one's choice. The provision in the shape of Regulation 9 is to determine the merit of the competing candidates. The provision for giving incentive marks to in-service candidates is permissible in law; and thus the proviso to clause (IV) in Regulation 9 must be upheld in larger public interest. That provision has been introduced, inter alia, also to address the deficiency and lack of response of graduate doctors to serve in remote or difficult areas in the*

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State. The scarcity of doctors in villages has been felt for quite some time for which the provision in the form of proviso to clause (IV) of Regulation 9 was necessitated. This concern was even echoed in the Rajya Sabha.

xxx *xxx* *xxx*

42. *It was then contended that hitherto reservation for in-service candidates was applicable only in respect of government colleges but on account of interim directions given by this Court, dispensation of giving weightage or incentive marks as per Regulation 9 to the in-service candidates has been made applicable across the board even to non-government medical colleges where the seats allocated to the State Government are to be filled up. In our opinion, Regulation 9 per se makes no distinction between government and non-government colleges for allocation of weightage of marks to in-service candidates. Instead, it mandates preparation of one merit list for the State on the basis of results in NEET. Further, regarding in-service candidates, all it provides is that the candidate must have been in service of a Government/public authority and served in remote and difficult areas notified by the State Government and the competent authority from time to time. The authorities are, therefore, obliged to continue with the admission process strictly in conformity with Regulation 9. The fact that most of the direct candidates who have secured higher marks in NEET than the in-service candidates, may not be in a position to get a subject or college of their choice, and are likely to secure a subject or college not acceptable to them, cannot be the basis to question the validity of proviso to clause (IV) of Regulation 9. The purpose behind the proviso is to encourage graduates to join as medical officers and serve in notified remote and difficult areas of the State. The fact that for quite some time no such appointments have been made by the State Government also cannot be a basis to disregard the mandate of proviso to clause (IV) of giving weightage of marks to the in-service candidates who have served for a specified period in notified remote and difficult areas of the State."*

It is pertinent to mention here that the in-service candidates who are awarded with 10% and 20% incentive marks are not eligible for quota/reservation and only in-service candidates who are awarded with 30% incentive marks are also eligible for 30% quota/reservation.

32. Now coming to the aspect of merit it can be said that the merit cannot be confined to marks obtained in an open competitive examination and must be understood in its broader constitutional context which includes experience of

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service as well. In this regard judgement of Hon'ble Supreme Court in the case of ***Neil Aurelio Nunes & Others v. Union of India & Others, (2022) 4 SCC 1*** is relevant. The same was reiterated in the case of ***Allahabad University & Others v. Geetanjali Tiwari (Pandey) & Others,*** **(2024) 20 SCC 23**.

33. Both the cases of ***Satyabrata Sahoo and ors vs State of Orrisa (2012)8 SCC 203 and State of M.P vs Gopal Tirthani & ors (2003) 7 SCC 83*** relied upon by the petitioners are clearly distinguishable on the ground that they relied on unamended regulation 9 of MCI Regulations 2000, as it existed prior to 05.04.2018 amendment, which specifically dealt with admission on the basis of academic merit whereas the term academic has been done away with in the currently prevailing Regulation 9(4) of the MCI regulations and the merit under the amended Regulations includes both marks obtained in the NEET exam as well as incentive marks awarded to the in-service candidates for the services rendered in the remote/difficult/rural areas as per the length of services subject to maximum of 30% marks.

34. The interveners are in-service Medical Officers. They served for one, two or three years in rural, remote or difficult areas on the faith of Regulation 9(4) (proviso) of MCI Regulations 2000 and Rule 14 of the M.P. Chikitsa Shiksha Pravesh Niyam, 2018, which have held the field since 2018. They sat in NEET-PG 2026 exam and were ranked in the State Merit List with incentive weightage, and received first-round allotments. The petitioners have not challenged the Regulation, the Rules or the State policy. They only ask the Court to read incentive marks out of the open-category merit computation.

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35. It is well settled that under the Doctrine of Legitimate Expectation, a public authority must not defeat an expectation created by its consistent rules, policy or practice without an overriding reason of public policy and without fair consideration of that expectation. The doctrine of legitimate expectation is a settled facet of Article 14. It protects a person who has acted on a clear and unambiguous representation, whether made through a rule, regulation, policy or consistent past practice, from having that expectation defeated without a fair and rational justification. The expectation must be reasonable, must rest on an established framework and not a mere hope and must be one on which the person has altered their position. The doctrine does not override a valid statutory provision, but the State and the Court should weigh it when deciding whether a change or a reading that takes away an accrued benefit, is fair and non-arbitrary.

36. There is strength in submission of intervenors for invoking the doctrine of legitimate expectation for following reasons: -

(a) Rule 9(4) and its proviso, the State has notified rural, remote and difficult areas and State policy, dated 28.02.2019 together held out incentive weightage for service in such areas. These instruments have held the field since 2018. After completing MBBS and the bond period, the intervenors joined as Medical Officers and has accepted and continued postings in rural, remote and difficult areas. The incentive in postgraduate admission was a material factor in that decision.

(b) The intervenors have already performed the service, sat in NEET-PG 2026 exam, were ranked in the State Merit List with incentive weightage and were allotted seats in Government Medical Colleges. They cannot undo the years of service.

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(c) The petitioners have not challenged Regulation 9(4) of MCI Regulations 2000, Rule 14 of the Madhya Pradesh Chikitsa Shiksha Pravesh Niyam, 2018, or the State policy and notifications. The expectation therefore rests on existing rules which remain valid and operative.

37. Regulation 9(4) of Rules of 2018 speaks of "merit", and it does not confine merit to marks obtained in a written examination. The earlier text considered in Gopal D. Tirthani and Satyabrata Sahoo spoke of "academic merit". The amended Regulation 9(4) omitted the word "academic", and its proviso expressly provides that "in determining the merit" of in-service candidates, weightage of up to 10% per year, capped at 30%, may be given for service in remote, difficult or rural areas. Merit under the Regulation therefore has two parts: academic merit shown in NEET, and the merit of practical experience, gained as a Medical Officer in interior and tribal districts, often without facilities or study time. The weightage marks become an integral part of merit and the single State Merit List is computed accordingly. The scheme in Regulation 9(4) and Rule 14 is also a matter of public policy. It is the State, as *parens patriae* of its rural and tribal population and under Articles 47 and 21, strengthening public health by retaining doctors where they are scarcest. Such rules and regulations can always be framed for that purpose, and the doctors repay it with three years of difficult service before the PG course and five years after it. Courts are slow to interfere with policy in the educational field unless it contradicts a statute or is manifestly arbitrary. Here the petitioners have not challenged Regulation 9(4) of MCI Regulations 2000, Rule 14 of MP Chikitsa Siksha Pravesh Niyam 2018 or the State policy dated 28.02.2019, and the policy and the Rules are neither contrary to law nor arbitrary. There is therefore no

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ground for the Court to interfere, or to read the incentive down as it is not even the case canvassed.

38. The grievance, therefore, of the petitioner is coming out of a common merit list of in-service candidates and fresh candidates where raw-NEET marks of the fresh candidates are criteria whereas for in-service candidates their raw-NEET marks are added with the marks of 10, 20 or 30 depending upon their service in the rural difficult areas and this practice is nowhere comprehended in the Rules as only practice needs to be adopted in adding up of marks and then allowing the in-service candidates to compete each other in the 30% quota fixed for in service candidates. The reading of the Rules of the State and the Regulation of the NMC when juxtaposed do not suggest the reading as canvassed. Both the provisions operate in difficult sphere and are independent of each other though the object behind the both common in the underlying policy to encourage the U.G. candidates to enter government to serve the rural areas and in turn, get assured service of P.G. Doctor posts their courses after the completion of their respective study. The Constitution Bench of the Apex Court in ***Tamil Nadu Medical Officers Association & Others v. Union of India & Others, (2021) 6 SCC 568*** has extensively given reason to support such a policy and appreciated the introduction of Rule 9(4) in the M.P. State Rules in the light of the law declared by the Apex Court in aforesaid judgement. The relevant para is as under: -

> ***"17.9.*** *As observed hereinabove, Article 21 of the Constitution of India imposes an obligation on the State to safeguard the life of every person. Preservation of human life is thus of paramount importance. Thus, when the State provides a separate source of admission for in-service doctors as a distinct class and within the State quota and the object is laudable, the State is within its power to provide such separate source of admission in exercise of the powers under List III Entry 25, read with List II Entry 6. It cannot be said that there is no nexus with the*

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> *laudable object of meeting the requirement of qualified postgraduate doctors for the public health services, more particularly, in the rural, tribal and difficult areas. As such, there is no conflict between the power of the Union and the State. As observed hereinabove, the occupied field of Union legislation in exercise of power under List I Entry 66 is related to minimum standards of medical education and the State is providing the in-service quota without impinging the prescribed minimum standards. It is a settled proposition of law that in case of two entries that might be overlapping, in that case, the interpretation must be in furtherance of achieving the ultimate object, in the present case to provide better healthcare in the rural, tribal and difficult areas. Any interpretation which would negate and/or become nugatory the other entry, is to be avoided. There must be a harmonious reading between the two entries. In the present case, as such and as observed hereinabove, there shall not be any conflict between the power of the Union and the State, while exercising the powers under List I Entry 66 by the Union and under List III Entry 25 by the States. Therefore, as such, the State is within its power and is empowered to make reservation in the seats of the postgraduate medical courses, more particularly, for in-service doctors."*

39. The aforesaid mandate was laid down while Hon'ble Apex Court was considering the reference made to the Constitution Bench, in view of the fact that the Three-Judge Bench decision in *State of U.P. v. Dr. Dinesh Singh Chauhan*, 2016 (9) SCC 749, construed the provisos to Regulations 9(IV) and 9(VII) of the MCI Postgraduate Medical Education Regulations, 2000, as amended in 2012, to mean that they do not provide for any reservation for in-service government doctors in postgraduate degree courses, and that the State Government's order providing such reservation is illegal. In this connection, the findings of the Constitution Bench are relevant:

> *"**19.** Even otherwise, Regulation 9 of the MCI Regulations, 2000 to the extent of not providing for any reservation for in-service candidates working in the rural, tribal and difficult areas can be declared ultra vires on the ground of being arbitrary, discriminatory and violative of Articles 14 and 21 of the Constitution of India. It is required to be noted that Regulation 9, more particularly Regulation 9(VII) makes provision for reservation for in-service candidates for admission to postgraduate diploma courses only. However, there is no reason coming out of either from the Regulations or in any form of material produced by MCI showing as to on what basis MCI takes a stand that similar in-service reservation is not*

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permissible for admission to postgraduate degree courses. Therefore, if the very concept of in-service reservation is permissible and incorporated in the MCI Regulations, 2000, opposition to similar reservation for postgraduate degree courses is unreasonable and irrational.

20. *Now so far as the observations made by this Court in Sudhir N. [Sudhir N. v. State of Kerala, (2015) 6 SCC 685, paras 22 to 24 : (2015) 2 SCC (L&S) 323 : 7 SCEC 283] and Dinesh Singh Chauhan [State of U.P. v. Dinesh Singh Chauhan, (2016) 9 SCC 749 : 8 SCEC 219] that the MCI Regulations, 2000 is a complete code is concerned, it is clear that the observations made by this Court in Sudhir N. [Sudhir N. v. State of Kerala, (2015) 6 SCC 685, paras 22 to 24 : (2015) 2 SCC (L&S) 323 : 7 SCEC 283] that Regulation 9 of the MCI Regulations, 2000 is a complete code is required to be considered with reference to the context and controversy before the Court.*

21. *In Sudhir N. [Sudhir N. v. State of Kerala, (2015) 6 SCC 685, paras 22 to 24 : (2015) 2 SCC (L&S) 323 : 7 SCEC 283], the State law which was under consideration by the Court provided that the seniority list of selected candidates to be prepared directly based on seniority of in-service doctors, irrespective of marks obtained by such in-service candidates in common PG entrance examination. In that context, this Court held that Regulation 9 of the MCI Regulations, 2000 is the only effective and permissible basis for granting admission to postgraduate medical courses and therefore it was observed that Regulation 9 of the MCI Regulations, 2000 is a complete code. Therefore, the observations in Sudhir N. [Sudhir N. v. State of Kerala, (2015) 6 SCC 685, paras 22 to 24 : (2015) 2 SCC (L&S) 323 : 7 SCEC 283] that Regulation 9 is a complete code in itself may not be construed with respect to providing reservation and/or making special provision like providing separate source of entry for in-service candidates within the State quota and subject to fulfilling of other criteria fixed and provided by MCI. Therefore, the observations made by this Court in Dinesh Singh Chauhan [State of U.P. v. Dinesh Singh Chauhan, (2016) 9 SCC 749 : 8 SCEC 219] and as held by this Court in Sudhir N. [Sudhir N. v. State of Kerala, (2015) 6 SCC 685, paras 22 to 24 : (2015) 2 SCC (L&S) 323 : 7 SCEC 283] that Regulation 9 is a complete code in itself cannot be accepted and is held to be not a good law."*

In view of these observations made by Hon'ble Apex Court it is clear that the law propounded in the matter of *State of U.P. v. Dinesh Singh Chauhan* (supra) with respect to reservation provided to in-service candidates has been overruled.

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40. An alternative argument advanced by the petitioners is that the addition of marks for in-service experience only for the purpose of inter-se seniority. Therefore, let us see what does Rule 14 of M.P. Medical Education Rules, 2018 provides for: -

> "**14. सेवारत अभ्यर्थियों के लिये प्रोत्साहन**,-
>
> सेवारत अभ्यर्थी/चिकित्सा **शिक्षा** विभाग के अन्तर्गत शासकीय चिकित्सा डिमोन्सट्रेटर/ट्यूटर/मेडिकल **ऑफिसर अभ्यर्थियों के लिये प्रोत्**साहन.
>
> (1) शासकीय **एवं निजी चिकित्सा**/दंत **चिकित्सा महाविद्यालयों में उपलब्ध समस्त विधा**ओं की डिग्री सीटों की रिक्तियों पर **अर्हत्ता**धारी पंजीकृत सेवारत अभ्यर्थी/चिकित्सा **शिक्षा विभाग** के अन्तर्गत कार्यरत् डिमोन्सट्रेटर/ट्यूटर/मेडिकल ऑफिसर हेतु 30 प्रतिशत आरक्षण रहेगा
>
> (2) उप-नियम (1) की **रिक्तियों** पर श्रेणीवार आरक्षण के संबंध में नियम 4 (1) में **वर्णित** प्रावधान लागू होंगे.
>
> (3) उप-नियम (1) की **रिक्तियों में से महिला प्रवर्ग एवं दिव्यांग प्रवर्ग के आरक्षण के संबंध** में संशोधित नियम 4 (2) में **वर्णित प्रावधान** लागू होंगे.
>
> (4) अभ्यर्थी **का प्रवेश वर्ष की नी**ट पी.जी. उत्तीर्ण होना अनिवार्य है.
>
> (5) नियोक्ता **से अनापत्ति प्राप्त करने के पश्चात् पोर्टल पर पंजीयन करने वाले स्वास्थ्य** विभाग के **सेवारत अभ्यर्थी को मेडिकल** काउंसिल ऑफ इण्डिया (MCI) / डेन्टल **काउंसिल** ऑफ इण्डिया (DCI) द्वारा समय-समय **पर** विनिर्दिष्ट अधिमान्य अंक **देते हुए प्रवेश हेतु आबंटन के** लिए उनका **परस्पर वरीयता क्रम नियत** किया जाएगा
>
> (6) सेवारत **चिकित्सों को अनापत्ति** प्रमाण-पत्र जारी करने की शर्त, पात्रता, अधिमान अंक दिया जाना, स्पॉन्सरशिप **एवं चयन आदि के मापदण्ड मध्यप्रदेश शासन का लोक स्वास्थ्य एवं परि**वार कल्याण विभाग समय- समय **पर निर्धारित कर सकेगा जिसे स्वास्थ्य विभाग के पोर्टल पर** प्रदर्शित किया जाएगा. चयनित **पात्र चिकित्स**कों की सूची काउंसलिंग प्रारंभ होने से 7 दिवस **पूर्व** संचालनालय, स्वास्थ्य **सेवायें द्वारा संचालनालय**, चिकित्सा शिक्षा को पी. जी. काउंसलिंग **में शामिल** किये जाने हेतु उपलब्ध करायेगा.
>
> (7) चिकित्सा **शिक्षा के अन्तर्गत** कार्यरत डिमोन्सट्रेटर/ट्यूटर/मेडिकल **ऑफिसर** जिन्हें अध्ययन **अवकाश की पात्रता है एवं संबंधित**
>
> महाविद्यालय के अधिष्ठाता/**प्राचार्य** के द्वारा उसे अनापत्ति प्रमाण-पत्र जारी किया गया हो, वे ही आरक्षण के लाभ के लिये पात्र होंगे. संबंधित चिकित्सा/दंत चिकित्सा महाविद्यालय उक्त चयनित चिकित्सकों की

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सूची पीजी काउंसलिंग प्रारंभ होने से 7 दिवस पूर्व संचालनालय, चिकित्सा शिक्षा को पीजी काउंसिलिंग में शामिल किये जाने हेतु उपलब्ध करायेगा.

(8) सभी प्रवेशित सेवारत चिकित्सक/चिकित्सा शिक्षा के अन्तर्गत कार्यरत डिमोन्सट्रेटर/ट्यूटर/मेडिकल ऑफिसर को पाठ्यक्रम पूर्ण करने के पश्चात् 05 वर्ष का अनिवार्य सेवा करनी होगी. **बॉण्ड** के अन्तर्गत 05 वर्ष की सेवा न करने पर बॉण्ड राशि रु. 50 लाख जमा करने होंगे.".

Sub-Rule (1) of Rule 14 of the aforesaid Rules of 2018 was amended as in the year 2022 (dated 26.07.2022), which is as under: -

उक्त नियमों में, नियम 14 में,-

1. निम्नलिखित प्रारंभिक पैरा का लोप किया जाए, अर्थात् :-

"सेवारत अभ्यर्थी/चिकित्सा **शिक्षा** विभाग के अन्तर्गत शासकीय चिकित्सा /दंत चिकित्सा महाविद्यालयों में कार्यरत डिमोन्सट्रेटर/ट्यूटर/मेडिकल आफिसर अभ्यर्थियों के लिये प्रोत्साहन" का लोप किया जाये.

2. उप-नियम (1) के स्थान पर, निम्नलिखित उप-नियम स्थापित किया जाए, अर्थात् :-

"**(1) शासकीय एवं निजी चिकित्सा / दंत चिकित्सा महाविद्यालयों में उपलब्ध समस्त विधाओं की डिग्री सीटों की रिक्तियों (Vacancies) पर अर्हताधारी पंजीकृत सेवारत अभ्यर्थियों जिनके द्वारा ग्रामीण / दूरस्थ / कठिन (Rural/Remote/Difficult area) स्थानों में न्यूनतम 03 वर्ष की अवधि की सेवा प्रदान की हो, के लिये 30 प्रतिशत सीटों का कोटा रहेगा.**"

3. उप-नियम (7) को लोप किया जाए.

4. उप-नियम (8) के स्थान पर, निम्नलिखित उप-नियम स्थापित किया

जाए, अर्थात् :-

"(8) सभी प्रवेशित सेवारत चिकित्सकों को स्नातकोत्तर पाठ्यक्रम पूर्ण करने के पश्चात् 05 वर्ष की अनिवार्य सेवा करनी होगी. **बॉण्ड** के अन्तर्गत 05 वर्ष की सेवा न करने पर बॉण्ड राशि रु. 50 लाख जमा करने होंगे."

41. The petitioners seek to give a restrictive meaning to the word "परस्पर", literally translated as "inter se", by confining its applicability exclusively to the 30% quota of seats reserved for in-service candidates. However, the meaning and scope of the expression "inter se" must be understood in the context of the words

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preceding it, particularly the word "आबंटन", which means "allotment". Therefore, sub-rule (5) of Rule 14 provides that the marks allotted for the purpose of admission shall also be taken into consideration for determining the candidates' inter se seniority in the merit list. On the other hand, the amended sub-rule (1) of Rule 14 deals with the 30% quota reserved exclusively for those in-service candidates who have completed a minimum of three years of service and are entitled to enhanced marks of 30%.

42. In the considered opinion of this Court, sub-rule (5) of Rule 14 does not, by itself, restrict in-service candidates from competing in the open/general merit list. The provision merely prescribes the manner of determining the *inter-se merit* of eligible in-service candidates for the purpose of seat allotment by awarding permissible incentive marks. It does not expressly state that in-service candidates shall be confined exclusively to the 30% in-service quota or shall be excluded from consideration against open-merit seats. Such an exclusion cannot be inferred merely from the use of the expression *inter-se merit "*परस्पर वरीयता*"*. In the Constitution Bench decision in ***Tamil Nadu Medical Officers Association (supra)*****,** the Hon'ble Supreme Court recognised the State's power to create a separate source of entry for in-service candidates, but did not lay down any prohibition against their competing for open-merit seats.

43. Further, Regulation 9 of the MCI Postgraduate Medical Education Regulations, 2000, deals with merit determination and incentive weightage, whereas Rule 14(1) creates a separate 30% admission channel. These provisions must be harmoniously interpreted. Unless the applicable admission rules or prospectus expressly provide for exclusive allocation to the in-service quota, an in-

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service candidate who independently satisfies the open-merit eligibility and merit requirements cannot be denied consideration against an open-merit seat merely on account of being an in-service candidate.

44. The argument by the petitioners cannot be accepted even on the ground that there may be in-service candidates who have completed one or two years of service and are entitled to additional marks of 10% and 20%, respectively. Similarly, in-service candidates who have completed three years of service are also entitled to additional marks of 30%; however, they may still not fall within the 30% reserved quota. The additional marks so awarded are required to be added to their respective scores for determining their position in the merit list for the purpose of allotment of seats. Therefore, the word "आबंटन" (allotment) cannot be construed as being associated with the 30% quota of reserved seats.

45. Hence, in the opinion of this Court, the methodology adopted by the State of reserving 30% of the seats for in-service candidates with three years of service, in accordance with the Amended Rules, 2018, cannot be faulted, particularly when the same has not been challenged. Further, the award of additional marks of 10%, 20% and 30% marks to in-service candidates having completed one, two and three years of service, respectively, is also in consonance with Regulation 9 of the MCI Regulations, 2000, and is independent of the aforesaid 30% reservation quota.

46. The Court may also observe that the admission process as is being conducted at present has been in place since 05.10.2021 under the prevailing rules and there has been no challenge to the Rules so far. Therefore, when the in-service doctors who after MBBS Course opted for rendering services in the difficult or rural areas with an expectation that after three years they will be given advantage

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of incentive marks as per the rules applicable and their right to get those marks added to merit get crystalized wherein right may not be now scuttled out.

47. The Court finds no reason to interfere with the ongoing admission process. We are informed that, in due deference to our interim order, the counselling process had been halted which may now be resumed and carried out in accordance with law.

48. Petition is hereby dismissed. Interim relief vide order dated 02.11.2026 stands vacated. Consequently, the intervention applications also stand disposed of.

(ALPESH Y. KOGJE)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE

RR/C

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