

JAMMU AND KASHMIR ACCOUNTABILITY COMMISSION  
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Comp No:S-Q2/2005

Dr. Shabnam Ara  
D/o Sh. Bashir Ahmed Wani,  
R/O Sonawar Bagh, Srinagar.

v/s

Dr. Santokh Ram,  
Chairman,  
BOPEE, Poloview Sgr

REPORT

The complainant doctor is aggrieved of by the order of the respondent permitting Miss Shabana Khan and Miss Rukhsana Waheed to exchange their disciplines in the M.D. Courses.

The complainant has submitted that she had given her preference for M.D Gynecology, in the test held by the Board had secured 175 marks and was placed at serial No: 92 in the merit list. Miss Shabana Khan also secured 175 marks and was placed at serial No: 88 in the merit list. One Miss Rukhsana Waheed secured 173 marks and was placed at serial No: 106 in the merit list. On the basis of the merit, Miss Shabana Khan was allocated M.D. Gynecology, the complainant Anesthesiology and Miss Rukhsana Waheed Ophthalmology. However, vide notification BPEE/MD/MS-2005/157 dated 01-08-2005, the respondent permitted Miss Shabana Khan and Miss Rukhsana Waheed to exchange their M.D courses which according to the complainant, is not permissible and is against the public policy. If such a course is permitted to be adopted, the rich and influential would secure admission in the course of their choices at the cost and merit of the poor, but other wise meritorious.

After the notice was issued to the respondent, he appeared in person and sought time to take action for redressal of the grievances of the complainant.

Today, order No: 112-BPEE of 2005 dated 15<sup>th</sup> October 2005 has placed on record, which reads as under:

"Reference to letter No: BPEE/2005/MD/MS/157 dated 01/08/2005 the Board of Professional Entrance Examinations does not have any powers either under the provisions of Board of Profession Entrance Examination Act or under the Medical Council Act or the Regulations made there under to authorize mutual exchange of graduate medical courses after the original allotment of disciplines made on the basis of Entrance Examination. The letter referred to above whereby two students have been allowed to mutually exchange their disciplines, has been based on earlier precedents which lack statutory sanction. One of the adversely affected candidates has repeatedly approached the Board

and questioned the validity of the letter under reference and has made strong plea for the revocation of the order made in the letter. She has also submitted a written representation for withdrawal of the letter. She has evidently approached other forums also for the redressal of her grievance i.e. withdrawal of the letter. The board has no satisfactory support to counter her plea and defend its action.

Hence, the permission granted to two students Ms. Shabana Khan and Ms. Rukhsana Waheed Qureshi for mutual exchange of their disciplines in the letter in question is hereby withdrawn and the candidates original allotment restored. Thus, henceforth, as per original allotment Ms. Shabana Khan shall undergo her post graduation medical course in the discipline of Gynecology and Obstetrics and Ms. Rukhsana Waheed Qureshi in Ophthalmology."

The action taken by the respondent is legal, justified and inconsonance with the provisions of the Board of Professional Entrance Examinations Act, the Medical Council Act and the Regulations made there under. It is specifically stated in the order that exchange was permitted on the basis of the precedents which on scrutiny have been found without authority of law.

The complaint<sup>-ent</sup> is satisfied with the action taken by the respondent. Her grievance stands redressed.

As the grievances of the complainant have redressed and the action of the respondent complained of was taken under the bonafide belief on the basis of some precedent which has now been rectified, no further action is required to be taken in the matter. The complaint is finally disposed of as settled.

As copy of this report be published in the Government Gazette for the information of all concerned authorities that while passing orders under the statutory provisions, they shall not deviate or adopt courses, which are not permissible under law.

Srinagar:  
17<sup>th</sup> October 2005.