

Dr. Vinay Rampal

Vs.

State of Jammu and Kashmir and Others

Writ Petition (Civil) No. 8177 of 1983

(D. A. Desai, V. B. Eradi JJ)

08.08.1983

ORDER

1. Rule nisi.

2. Petitioner appears in person. We heard Mr. Altaf Ahmed, learned counsel for the State of Jammu and Kashmir.

3. Mr. Altaf wanted us to examine the operational area of the Government order dated March 23, 1979. It was urged that on a true interpretation of this order, the petitioner would not be qualified for selection and admission to post-graduate course or registration in the speciality course for General Medicines for M.D. degree in the Government Medical College at Jammu. To appreciate this submission, it would be necessary to refer to the advertisement issued by the Principal, Government College, Jammu, on July 25, 1981 inviting applications for selection and admission to post-graduate course in General Medicines in Government Medical College at Jammu. The selection for admission was to be made on the basis of minimum qualifications set out in the advertisement. In respect of two aspects there is a contradiction between the Government order dated March 23, 1979 and the advertisement setting out minimum qualification for admission. Applications were invited from intending candidates who satisfy the minimum eligibility qualification. There was no reference in advertisement about Government order dated March 23, 1979. Petitioners and others submitted applications keeping in view the advertisement which was issued and therefore the requirements set out in the advertisement should provide the basis for selection and eligibility for admission of the petitioner has to be judged on the same basis otherwise he can complain of discrimination, as others have been admitted on the basis of advertisement and not order dated March 23, 1979.

4. If the petitioner's eligibility for admission to the course for which he had applied is to be judged on the qualifications as set out in the advertisement, it is indisputable that he was eligible for admission under clause (b)(iv) of the advertisement. Mr. Altaf Ahmed, however drew our attention to Item. No. 12 in Notification No. 4 of 1981 issued by the Government Medical College at Jammu, which recited that the selection of the candidates will be made strictly in accordance with the instructions issued by the Government. That may be so. But can it be urged that advertisement was issued ignoring Government instruction if any relevant to the subject. In any event such a vague direction that the selection of candidates will be made strictly in accordance with the instructions issued by the Government, in the face of advertisement leave us cold because any such instruction must be in conformity with some rules and if there be rules the same must be in conformity with the Regulations framed by Indian Medical Council of its jurisdiction extends to Jammu and Kashmir. It was never suggested at any point of time that in issuing the advertisement there was any error. If

that be so the College authority including Principal issuing advertisement and inviting applications for admissions must be held bound by it unless shown otherwise. The petitioner was eligible for admission in the subject of General Medicines for M.D. degree in the year 1981 according to qualifications and other requirement set out in the advertisement. The sands of time have run out which is inevitable in judicial process. What relief can the Court grant to person unjustifiably refused admission ? Post-graduate qualification in medical discipline is highly coveted. We must therefore find a fresh answer.

5. Mr. Altaf Ahmed told us that the new academic year is to commence some time in September. We accordingly direct that the petitioner shall be admitted in the subject of General Medicine for M.D. degree without any further test or selection during the current academic year which will commence not later than middle of September, 1983. We dispose of the petition accordingly. There shall be no order as to costs.

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