

State of Bihar and Others

Vs

Dr. Sanjay Kumar Sinha and Others

Civil Appeal No. 3658 of 1989

(Ranganath Misra, P. B. Sawant, K. Ramaswamy JJ)

15.11.1989

JUDGMENT

1. Special leave granted.

2. Challenge in this appeal is to the order dated March 30, 1989 made by the Ranchi Bench of the Patna High Court in a writ petition under Article 226 of the Constitution. The High Court was moved by a act of the medical graduates who are respondents before us challenging the prospectus for admission into the post-graduate medical admission published by the Controller of Examination-cum-Additional Director, Health Services Department of Bihar for the year 1989 on the allegation that the prescription that a candidate for the purpose of getting admitted to the post-graduate course must complete his or house-job of 12 months on or before May 31, 1989 was contrary to the directions of his Court in the case of Dr. Dinesh Kumar v. Motilal Nehru Medical College, Allahabad ((1987) 4 SCC 459). The High Court found that the time frame set by this court in the reported order was not adhered to in the prospectus and, therefore, allowed the writ petition by mandamus directing the State and its officers not to permit any candidate to take the Post Graduate Medical test if he had not the requisite qualification of completing 12 months' house-job on May 1, 1989. It further quashed the prospectus to the extent that the cut-off date of eligibility was fixed as May 31, 1989.

3. The State of Bihar and its officers who were respondents in the High Court are in appeal and their main contention is that the all India Entrance Examination for Post Graduate Medical Courses held by the All India Institute of Medical Science was not conducted in time as fixed by this Court and intimation of the results was sent late. It was further argued before us that several States have also not been complying with the time frame indicated by this court in the reported order and as such the scheme formulated by the court is not being implemented properly. In view of such specific allegations, particularly against the examining body which has been entrusted with the work by this Court, notice was issued to All India Institute of Medical Sciences and Institute had entered appearance through counsel and has filed its affidavit.

4. In the reported order it was stated by us : (SCCP. 462, para 6)

"What remains now to be dealt with is the finalisation of the program relating to the selection examination. As already decided the selection examination shall be conducted by the All India Institute Of Medical Sciences, New Delhi. The announcement for holding of the selection examination shall be made on October 1, of every year and full four weeks' time would be made available to candidates for making their applications. After the applications are received not later than six weeks

from October 1, the same would be scrutinised and duly processed and admit cards would be issued. Examination shall be held on the second Sunday of January. The results of examination shall be announced within four weeks from holding of the examination. Admission shall commence two weeks after the declaration of results. The last date for taking admission shall be six weeks from the date of the announcement of results but the Head of every institution shall be entitled to condone delay up to seven days for reason shown and grounds recorded on special cases. The courses of study shall commence in every institution providing such study throughout the country from May 2. Notification announcing examination, publication of result and allotment of place of admission (keeping preference in view and our directions regarding preference of lady candidates in place of proximity to residence) shall be published in two successive issue of one national paper in English having large circulation in every State and at least in two local papers in the language of the State as quickly as possible."

Obviously the relevant directions have not been followed by the examining body for the current year. Similarly the State of Bihar did not follow the directions of this Court while drawing up its prospectus. If the courses of study are to commence from May 2, the last qualifying date could not have been fixed as May 31, 1989. It has been reiterated before us that several States have not been following the directions. Instead of issuing notice to the States and Union Territories for examining the correctness of the allegations of delay and non-compliance of the directions, we have thought it appropriate to indicate that everyone including the States, the Union Territories and other authorities running Medical Colleges with post-graduate courses are bound by our order and must strictly follow the time schedule indicated in paragraph 6 of the order. We have not proceed against the defaulting authorities for violation of this court's orders, hoping that there would be no recurrence of it but we would like to any time in future that there has been violation, serious view of such default shall be taken. We hope and trust that everyone concerned shall comply with the time frame strictly and there would be no lapse in this regard in future.

5. Counsel for the All India Institute Of Medical Sciences has expressed regrets for what has happened and has assured us that there would be no default in future.

6. Counsel for the respondents has brought to our notice the position that in the previous year the State of Bihar had taken the stand that the extension was not possible in view of this court's directions and the States' stand this year was to the contrary. Counsel for the State of Bihar has regretted this position. We find that those who had qualified beyond the cut-off date in the previous year have taken examination in terms of the prospectus of this years along with the new group. The mistake of the State in fixing a date beyond the cut-off date fixed by this Court has obviously misled a group of candidates. In these circumstances, we are of the view that it is in the interest of all that the mistake committed by the State of Bihar should be condoned and on the basis of the result of the selection examination with May 31, 1989, as the cut-off date, admissions for this year should be permitted. We agree with the High Court that the view it has taken in the basis of this Court's directions was the most appropriate one but in special circumstances referred to above we have made a departure confined to the present year only.

7. The appeal is disposed of with these directions.

</html