

U. P. Junior Doctors' Action Committee

Vs

Dr. B. Sheetal Nandwani and Others

Interlocutory Application No. 1 of 1990 in Civil Appeal No. 4444 of 1990

(Kuldip Singh, Ranganath Misra JJ)

31.08.1990

JUDGMENT

RANGANATH MISRA, J. -

1. Leave is granted to the petitioners who were no parties before the High Court in Writ Petition No. 5267 of 1990 to file the special leave petition. The Registry shall, therefore, consequently register this special leave petition. Special leave is granted.

2. On May 25, 1990, a learned Single Judge of the Allahabad High Court is said to have made an order in Writ Petition No. 5267 of 1990. That brief order for convenience is extracted below :

"It has been brought to the notice of the court that the opposite parties have violated the time schedule framed by Hon'ble Supreme Court in the case of Dr. Dinesh Kumar v. MLN Medical College, Allahabad ((1987) 4 SCC 459) in organising the competition to be held on May 27, 1990 by Lucknow University for admissions in Post Graduate Medical Courses in the State Medical Colleges. The Hon'ble Supreme Court has recently warned in the case of State of Bihar v. Dr. Sanjay Kumar Sinha ((1990) 4 SCC 624 : AIR 1990 SC 749) 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 same schedule". For violating its orders, the Hon'ble Supreme Court hoped that "there would be no recurrence of it but we would like to administer a warning to everyone that if it is brought to our notice at any time in future that there has been violation, a serious view of such default shall be taken."

Keeping in view the above observations the opposite parties are strictly directed not to hold the competitive examination scheduled on May 27, 1990 and admit the petitioners in post-graduate medical courses in the present session on the basis of marks obtained in MBBS Course as has been done for MDS Courses.

The writ petition is allowed with no order as to costs."

3. On the basis of that order and relying upon the terms thereof, a learned Single Judge of the Lucknow Bench of the High Court made an order on June 4, 1990 directing that steps be taken on the basis of the direction made in the order dated May 25, 1990 for giving admission to candidates in P.G. Courses. The net result of these two orders is that the Selection Examination for filling up of the seats in the post-graduate medical courses of the seven medical colleges in U.P. has been

cancelled and a direction has been issued to the State Government to grant admission on the basis of MBBS results.

4. This Court by order dated August 21, 1990 directed the Registrar of the Allahabad High Court to transmit the record wherein order dated May 25, 1990 is said to have been made. The Registrar in his letter dated August 22, 1990, to this Court in response to the direction has stated that :

"... there is no such case as Writ No. 5267 of 1990 (Dr. B. Sheetal Nandwani v. State and Others) and no judgment was delivered by Hon'ble Mr. Justice Anshuman Singh on May 25, 1990 in the said case. The file is sent to you through special messenger and you are requested to kindly return the file after the Hon'ble Court's perusal.

It is further submitted that fake judgment was said to have been produced before different Medical Colleges purporting to have been delivered by Hon'ble Mr. Justice Anshuman Singh on May 25, 1990 in Writ Petition No. 5267 of 1990 directing the opposite parties not to hold competitive examinations scheduled on May 27, 1990 and admit the petitioners in post-graduate medical course in the present session on the basis of the marks obtained in MBBS Course. In 'Northern India Patrika' (Allahabad Edition) dated August 11, 1990 this matter was published with the heading 'Bogus judgment aborts entrance exam' and only then it came to the notice of the Hon'ble Court and the Hon'ble the Chief Justice took up the matter and directed that a CID enquiry be instituted. On the direction of Hon'ble the Chief Justice the government has been moved to get the matter investigated by CID."

5. From the report it is manifest that a fake order in a non-existent writ petition was produced before the Lucknow Bench of the Allahabad High Court for securing the order dated June 4, 1990. It also transpires that on the basis of alleged order dated May 25, 1990 and the subsequent order of June 4, 1990 some admissions have been secured in some of the medical colleges. Those who have taken admission on the basis of such orders, that is on the basis of the MBBS result without going through a selection examination cannot be allowed to continue in the post-graduate courses. We are satisfied that there is a deep-seated conspiracy which brought about the fake order from Allahabad, the principal seat of the High Court and on the basis thereof a subsequent direction has been obtained from the Lucknow Bench of the same High Court. The first order being non-existent has to be declared to be a bogus one. The second order made on the basis of the first order has to be set aside as having been made on the basis of misrepresentation. We are alive to the situation that the persons who have taken admission on the basis of the MBBS results are not before us. The circumstances in which such benefit has been taken by the candidates concerned to not justify attraction of the application of rules of natural justice of being provided an opportunity to be heard. At any rate now that we have at the instance of the U.P. Government ordered the selection examination to be held (See Dr. Dinesh Kumar v. MLN Medical Collage, (1987) 4 SCC 459), admission on the basis of MBBS results cannot stand. We accordingly direct that admissions, if any, on the basis of MBBS results granted after the impugned orders of the High Court shall stand vacated and the Principals of the medical colleges of U.P. are directed to implement the direction forthwith. A copy of this order shall be communicated to each of the Principals of the seven medical colleges in the State of U.P. for compliance.

6. The report of the Registrar of the High Court of Allahabad indicates that the Criminal Investigation Department of the State has been asked to investigate into the matter. We are of the view that appropriate investigation should be done by the Central Bureau of Investigation and

persons behind this deep-seated fraud should be brought to book without any delay. Purity of the judicial stream should not be allowed to be polluted by such a clandestine move and citizens should not be misled by actions of the conspirators. We, therefore, direct that the Central Bureau of Investigation shall step in forthwith and complete the investigation within two months and provide a copy of the report containing the result of the investigation to this Court. A copy of the report shall simultaneously be submitted to the learned Chief Justice of the Allahabad High Court. The appeal is allowed with costs. As and when the respondents who are said to be petitioners in Writ Petition No. 5267 of 1990 are identified they shall be made to pay the costs of this appeal which we assess at Rs. 10,000. Out of the costs as and when recovered, the appellants shall be entitled to a sum of Rs. 3000 and the remaining sum of Rs. 7000 shall be paid to the Supreme Court Legal Aid Committee.

</html