

Jasbir Singh Dhandra

Vs

Mahatma Gandhi Institute of Medical Sciences, Sevagram, Maharashtra and Others

Writ Petn. No. 890 of 1990

(L.M. Sharma, Smt. M.S. Fathima Beevi JJ)

14.11.1990

JUDGMENT

SHARMA J

1. The petitioner applied for admission to the medical course in Mahatma Gandhi Institute of Medical Sciences, Sevagram and was included in the list of successful candidates on the basis of merit. He, however, could not report at the Institution in time for getting his admission and respondent No. 4 who was lower in merit was admitted. By the time the petitioner reached the College, there was no vacancy. His request for being accommodated was turned down by the authorities and he has, therefore, filed the present application for necessary relief.
2. The Institute in question is in the State of Maharashtra and the petitioner is a resident of a village in Haryana. Out of the total 64 seats, 4 have been reserved for candidates belonging to rural area from any part of the country other than the State of Maharashtra, and in that category the petitioner's name was third in order of merit. In his absence the 4th seat which remained unfilled was allotted to the respondent No. 4 who is also a student from a rural area in Haryana. According to the case of the petitioner, a letter dated 19-7-1990 was sent from the office to the Dean to his village address asking him to take his admission by the 25th of July. The letter, however, reached him on the 4th of August, 1990 and he sent an express telegram on the very next date, that is, the 5th of August, 1990 stating that he would be reaching on the 7th August. By the time he reported at Sevagram, the respondent No. 4 had already been admitted.
3. Mr. Mukhoty, the learned counsel for the petitioner, has contended that having regard to the state of postal service in the country it cannot be expected that a letter posted in Sevagram on the 19th or 20th of July would be duly delivered in a village in Haryana in time for the student to proceed and reach Sevagram by the 25th of July. The procedure adopted by the authorities, therefore, amounted to a denial to the petitioner of his right of getting admission on the basis of his merit.
4. According to the authorities, a telegram also was sent to the petitioner which is proved by the certificate issued. The petitioner asserts that no such telegram was ever delivered to him. He has produced a certificate issued by the postal department to support him.
5. It is true that the procedure adopted by the authorities for informing the selected candidates requires re-examination and Mr. Sanghi, the learned counsel representing the respondent No. 1, the Dean, appreciating the point, states that he will make a suggestion to the respondent for giving it a

second thought. He has, however, pointed out that the applicant had been informed sufficiently in advance that result of the test would be completed by the middle of July and that the non-Maharashtrian selected candidates should take their admissions by the 21st of July and in that view the successful candidates could have made inquiries in time. Relevant documents in this regard are on the record of this case. He also produced materials to show that similar letters to the other candidates had all reached them in time and there was no complaint by any person other than the petitioner. The main answer to the petitioner's grievance is, however, the fact that the petitioner appears to have changed his address, as a result of which he could not get the letter in time. This is amply proved by the petitioner's application dated 7-8-1990 addressed to the Dean (Annexure-A to the reply to the writ petition) which reads as follows

"To,

The Dean,

Mahatma Gandhi Institute of

Medical Sociences,

Sevagram, Wardha.

Sir,

I beg to state that I was successful out of Maharashtra rural area reserve seats in MBBS Course 1990 but due to non-receipt of letter and telegram. I could not come in time because I have given address of my native village. Now I request you to send me intimacy (sic) for admission to my following address if any seat falls vacant in future.

Thanking you,

Yours sincerely,

Jasbir Singh

Dated 7/8/90

Address

for Correspondence - Jasbir Singh

C/ o 1248, Urlean Estate, Jind

(Haryana)"

The envelope of the letter sent to him was produced by Mr. Mukhoty before us and it appears that the dates within the postal seals have been supplied by hand subsequently. After taking instruction from the petitioner, who was present in Court, Mr. Mukhoty stated that since the date was missing, the postal peon supplied the date in his hand on the request of the petitioner. The petitioner would have been well advised to file the envelope in the condition it was received by him and should have

produced a certificate from the Post Office about its actual date of delivery. This was not done. The petitioner did not even explain in his writ petition or subsequent affidavit the circumstance in which the dates were supplied later by hand within the postal seals. The places meant for indicating the month appear to have originally contained some marks. However, the petitioner may be right that originally it was not possible to read the date and the month within the seals; but in view of the attempt to supply the same in hand without disclosing as to how and in what situation that was done we are not in a position to place any reliance on the envelope. In view of his letter to the Dean mentioned above, we also reject the petitioner's case that he was not at fault for the late delivery of the letter to him as has been attempted to be made out in the petition. The writ petition is, therefore, dismissed, but, in the circumstances, without costs.

Petition dismissed.

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