

U.P. Junior Doctors Action Committee and others

Vs

Dr. B. Sheetal Nandwani and others

Interlocutory Appln. 1 in C.A.No. 4444 of 1990 with Civil Appeal No. 4559 of 1991

(CJI Ranganath Misra, G. N. Ray, Dr. A. S. Anand JJ)

22.11.1991

ORDER

1. The dispute in these cases relates to admission in post-graduate courses of the medical wing. There are seven medical colleges in the State of Uttar Pradesh. Sometime back in a fake writ petition the High Court of Alhabad made an order that admission could be effected on the basis of the MBBS results. That can counter to the decision of this Court and on being looked into it transpired that the proceedings before the High Court were totally fraudulent and no one by the name given in the petition as petitioner could really be identified. This Court at that stage had clearly indicated that the prescription by this Court has been that there should be selection test for postgraduate admission as admission has become very competitive and to have compliance of Art. 14 of the Constitution a broad-based arrangement should be made. On that account this Court had clearly indicated that no admission should be permitted on the basis of the MBBS results. In view of the fact that the Allahabad High Court's order has already been reversed, nothing more need be done.

S LP (C)..... of 1990

2. This petition is directed against the order of the learned single Judge of the Allahabad High Court dated 25-5-1990. U. P. Junior Doctors Action Committee in their special leave petition which had not yet been numbered challenge the order referred to above where the petitioner could not be identified and challenge was to the decision of the High Court dated 25-5-1990 which permitted admission on the basis of MBBS results. Since we have already clarified the position and reiterated the requirement of a selection test the order of the High Court must be taken to have already been vacated. It is not necessary to entertain this special leave petition.

CA in SLP 15354/91

3. Special leave granted.

4. In this appeal by special leave Principal of the Agra Medical College along with some others is the appellants. The High Court by the impugned order required provisional admission in M. S. (Surgery) and in M. D. (Medicine) to be given to respondents 1 and 2 respectively in the Medical College of Agra while the writ petition was yet to be heard. The contention raised before us is that grafting admission at an interlocutory stage in a pending proceeding even by styling it as provisional creates lot of adverse consequences and leads to indiscipline in the system of imparting education. Admission into postgraduate degrees in the medical wing throughout the country has become very competitive and it has become clear that strict regulation is necessary. This Court by

its judgment in *Dr. Pradeep Jain v. Union of India* (1984) 3 SCC 654: (AIR 1984 SC 1420) indicated that admission for 25 per cent of the seats in post-graduate courses should be regulated on the basis of all-India selection and in regard to the remainder 75 percent of the seats were left to decide the procedure for admission.

5. Appropriate knowledge and expertise are a prerequisite for a person to be allowed to register himself as a medical practitioner. Very often, health problems require expert treatment. If anyone is authorised in society to practise medicine or undertake medical care without the appropriate qualification, society exposes itself to health hazards. The prescriptions by the Indian Medical Council and the attempts made by Government for regulating the medical study are for establishing a basically uniform knowledge to be imparted to the students before they can be entrusted with the nation's medicare. Unless there is a sincere and thorough educational discipline to be gone through as a precondition to the grant of the requisite certificate the lives of citizens would be at peril.

6. The Indian Medical Council has prescribed a reasonable period of study on expert advice and upon taking into consideration the experience over the years as to how much study is necessary for the requisite qualification to be gathered. This Court has also indicated the dates of admission and commencement of the courses of study. These are prescriptions for a purpose and are not intended to be empty formalities to be violated.

7. One of the prescriptions of the Medical Council is also the ratio between the teachers and the students. That again is a factor which cannot be brushed aside.

8. It is a well-known rule of practice and procedure that at interlocutory stage a relief which is asked for and is available at the disposal of the matter is not granted. The writ petitioners wanted admission into post-graduate course as the main relief in the writ petition. To have it granted at the threshold creates a lot of difficulties. In a case where the petitioner ultimately loses in a case of this type a very embarrassing situation crops up. If he has by then read for two to three years, there is a claim of equity raised on the plea that one cannot reverse the course of time. In a case of this type equities should not be claimed or granted. Taking an overall picture of the matter we are of the view that unless there is any special reason to be indicated in clear terms in an interlocutory order as a rule no provisional admission should be granted and more so into technical courses.

9. On the basis of what we have said the order of the High Court should be reversed but we are not doing so on account of the fact that nine similarly placed medical graduates have already been given admission pursuant to such interlocutory orders by the respondents without even raising a challenge. The order was made as early as in February 1991 and for all these nine months no steps have been taken by the appellants to comply with the order and they are in fact facing a contempt proceeding. While on principle we indicate that such provisional admission should not be granted, we dismiss this special leave petition and sustain the order not on merits but for the reason indicated. The interlocutory application in the civil appeal need not be further dealt with in view of what we have said above.

10. We had issued notice to the Principals of the seven medical colleges. They have appeared and have given a written undertaking to the Court by way of affidavit that there was some misunderstanding in regard to the requirement of a selection test for postgraduate admission. There were two-year and three-year courses running simultaneously for some period and some confusion was there as to whether the two-year course students were covered by the direction of this Court. Though we are of the view that there was hardly any scope for being misled, we are prepared to

give the benefit of doubt to the Frincipals. The contempt proceedings are withdrawn but the undertakings are kept on record.

Order accordingly.

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