

State of Maharashtra and Others

Vs

Ravindra Kumar Rai

Review Petition (C) No. 992 of 1998

(S. C. Agarwal, M. Jagannadha Rao, A. P. Mishra JJ)

24.07.1998

ORDER

1. Application for impleadment is allowed.
2. The learned counsel appearing for the petitioners seek leave to withdraw the applications seeking permission to file review petitions. The applications are dismissed as withdrawn.

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3. By this review petition, the petitioner, viz., State of Maharashtra is seeking modification of the direction contained in the judgment of this Court dated 27-2-1998 passed in Ravindra Kumar Rai v. State of Maharashtra ((1998) 3 SCC 183). It is, therefore, directed that it should be treated as an application for modification instead of being treated as a review petition.
4. By our judgment dated 27-2-1998 in Ravindra Kumar Rai ((1998) 3 SCC 183) we had directed the respondents in the writ petition to hold a common entrance examination for the purpose of making selection for admission to medical colleges in the State of Maharashtra having regard to the provisions contained in Regulation 5 of the Regulations on Graduate Medical Education, 1997 framed by the Medical Council of India. It was directed that the State of Maharashtra and its Medical Education Department shall start the process for holding the common entrance examination for admission to colleges in Maharashtra for Session 1998-99 and conduct the said examination in accordance with the Regulation on Graduate Medical Education, 1997 made by the Medical Council of India.
5. On 19-3-1998, this application was submitted on behalf of the State of Maharashtra. In the application, it is prayed that implementation of the judgment of this Court be allowed to be done from Academic Year 1999 instead of 1998 in the interest of justice. It is stated that in order to hold a common entrance examination, it is necessary to frame rules and under Section 65 of the Maharashtra University Act, 1994 it is incumbent that the model rules should be published at least six months before the start of any academic session which shall begin not later than first of August every year, which means that the rules for holding the common entrance examination for 1998 academic session which would have started in June 1998 were required to be framed sometime in December 1997 or January 1998 and that in the absence of rules framed in accordance with Section 65 of the Maharashtra University Act, 1994, the common entrance examination for Academic Session 1998 cannot be held.
6. In support of the application, Shri T. R. Andhyarujina, the learned Senior Counsel appearing for

the State of Maharashtra, has pointed out that by Maharashtra Ordinance No. 8 of 1998 promulgated by the Governor of Maharashtra on 3-6-1998, Maharashtra University of Health Sciences has been established and the said University has been entrusted with the task of controlling and regulating admission of students for various courses of study conducted in university departments and affiliated colleges/institutions/schools and recognised institutions. It is submitted that the said University will be conducting the common entrance examination for the various courses, including the courses in medical colleges and dental colleges in the State of Maharashtra. But it will take some time for the said University to make the necessary arrangements for conducting the common entrance examination. It has also been pointed out that out of the three Boards which impart education up to the higher secondary (10+2) level in the State of Maharashtra, applications for admission to medical/dental colleges have been received from students who have passed the higher secondary examination conducted by the Maharashtra Higher Secondary Examination Board and the Central Board of Secondary Education (CBSE) and no student who has obtained the higher secondary qualification from the ISC Board has submitted an application. It has been further submitted that out of 19,865 applications which have been received, the number of applicants who have qualified from the CBSE is only 110. It is, therefore, prayed that the direction regarding holding the common entrance examination for the 1998 academic session be modified and that the State of Maharashtra may be permitted to complete the process of admission to the medical/dental colleges for the 1998 academic session as per the existing system of evaluation of marks. It has also been submitted that for the purpose of admission, the comparative merit of the students who have qualified from different Boards would be assessed in accordance with the normalisation process which is followed at the Birla Institute of Science and Technical Education, Pilani.

7. Shri M. C. Bhandare, the learned Senior Counsel appearing for the impleaded respondent, and Shri L. R. Singh, the learned counsel appearing for the petitioner in the writ petition, have, however, opposed the application. They have submitted that it was not incumbent for the State Government to make rules for holding the common entrance examination and that in any event, such rules have already been framed vide notification dated 29-5-1998. It is also stated that the students have already deposited the examination fee for the examination and have been preparing for the said examination for the past two months and in these circumstances modification should not be allowed.

8. Shri Andhyarujina has, however, pointed out that since the application could not be placed for orders before the Court closed for the vacations, the State Government, in order to avoid being proceeded against for contempt, has framed the rules without following the requirements of Section 65 of the Maharashtra University Act, 1994.

9. Having considered the facts and circumstances of the case and the submissions of the learned counsel, we are of the view that it would be appropriate to permit the State of Maharashtra to proceed with admission to medical/dental colleges in the State for the 1998 academic session in accordance with the system which was being followed by the Government of Maharashtra till now, namely, on the basis of marks secured in the qualifying examination subject to the condition that for the purpose of making a comparative assessment of the merit of the students who have passed the qualifying examination by different Boards, the State Government shall follow the normalisation process as adopted by the Birla Institute of Science and Technical Education, Pilani for such comparative assessment. We, therefore, modify the direction contained in our judgment dated 27-2-1998 ((1998) 3 SCC 183) and direct that the common entrance examination for admission to the medical colleges instead of being conducted for admission to medical colleges for the 1998 academic session shall be conducted for admission from the 1999 academic session onwards. The amounts which have been received by the State Governments as fees from the students for the

examination will be refunded to them. The application of modification is allowed accordingly.

Contempt Petition (C) No. 298 of 1998

10. The contempt petition is dismissed.

Writ Petitions (C) Nos. ..... of 1998, Diaries Nos. 10134, 9064, 9023 and 9043 and RP No. 1305 of 1998

11. In view of the order passed in the application for modification, the learned counsel appearing for the petitioners seek leave to withdraw the writ petitions and the review petition. The writ petitions and the review petition are dismissed as withdrawn.