

Dental Council of India

v.

Subharti K.K.B. Charitable Trust and Another

(Supreme Court Of India)

HON'BLE JUSTICE M. B. SHAH HON'BLE JUSTICE M. JAGANNADHA
RAO

Special Leave to Petition (Civil) No. 22222 Of 1997 | 03-05-2000

1. For the first-year batch 1998-99, the respondent had an order of the High Court for admission of students. There was neither any order of the Court nor of any other authority for permission to conduct its own examination for admission for 1999-2000. But the respondent conducted an entrance examination for the two batches for 1998-99 and 1999-2000.

2. Prima facie, we are not inclined to pass any orders in favour of the respondent College, so far these two batches are concerned. The respondent College is directed to suspend classes for these two batches of 1998-99 and 1999-2000, until further orders.

3. The next question is with regard to the first-year batches 1996-97 and 1997-98, who have now completed two years and also the course for third year and are awaiting the third-year examination.

4. So far as admission for 1996-97 batch is concerned, permission was granted by the Dental Council of India, for 60 students and for the remaining 40 students, the High Court of Allahabad appears to have granted an order in favour of the respondent Institution.

5. So far as the first-year batch for 1997-98 is concerned there was no order of the Court for admission of students. But the respondent relies only upon an order in respect of 1998-99, and by implication assumed that, for 1997-98, it

must be treated that there is an order for admission, and proceeded to admit 100 students for 1997-98.

6. It is contended that the students who have been admitted for first-year batch 1997-98 were from a list given by the Director General, Medical Education, U.P., as per the statement made by the respondents before us. The Director General of Medical Education, U.P. will verify and confirm to this Court whether the second-year batch of students admitted by the respondent Institution for the year 1997-98 was from the list furnished by the said Director General, on the basis of merit at entrance examination. In case, it is found that the 1997-98 batch of first-year students have been admitted from a list given by the Director General as above-mentioned, then we could consider the question whether they should be permitted to take the third-year examination. As stated earlier, the two batches for 1996-97 and 1997-98 have completed the first-year and second-year courses. Question will be if they should be permitted to take their examination in November-December 2000.

7. So far as the examination of May 2000 in the third year is concerned, we are not inclined to grant permission to these students of the first-year batch of 1996-97 and 1997-98, but question of their taking the examination of May 2000, will be decided at the next date of hearing after verifying if the 1997-98 first-year batch was from the merit list. By that time we will be having the fresh inspection report also.

8. So far as fresh inspection is concerned, there have been several inspection officers appointed by the Dental Council of India earlier. There have also been certain inspections done under the orders of the Court by the District Judge and another committee which is supposed to have accompanied the District Judge. Now, we would like to have a fresh inspection report and a final one. It will be necessary to inspect once for all, to ascertain whether all the necessary conditions for grant of permission for conducting the course for the first, second, third and fourth years are satisfied and whether all the necessary infrastructure is available with the colleges in respect of the courses for the four years, including faculty and other staff. We, therefore, direct a fresh inspection by a committee as specified lower down in this order.

9. The inspection will be made in respect of the new premises which has been constructed by the Institution, which is situated at Meerut Municipality. The inspection team will also inspect the hospital, which is supposed to be attached to these institutions.

10. It is made clear that the Dental Council will give their final report once for all in respect of all the infrastructure for conducting the course for the four years exhaustively without keeping back any item to be pointed out later.

11. The inspection team will be nominated by the Dental Council of India. But the Chairman of this Committee will be the Head of the Department of Dental Sciences, Postgraduate Institute of Medical Sciences, Chandigarh. The inspection will be conducted within a period of three weeks from today in the presence of the Principal or other representatives of the Institution who will cooperate with the inspection. The report will be submitted to this Court within six weeks from today. Copies of the report will also be given to the Dental Council of India. Counsel for the Council will make copies and give them to the respondents.

12. We may, however, say that we do not approve the order passed by the High Court, particularly, the orders passed on 26-2-1999 and 17-4-1999, granting various approvals and the mandamus which was granted to the Dental Council of India to grant approval.

13. In this connection, the judgment of this Court in *Medical Council of India v. State of H.P.* is relevant. The following passage in that judgment deals with a similar situation :

"3. We find force in the submission of the learned Additional Solicitor General. Since the refusal was based on deficiencies for running a medical college, it would have been appropriate for the High Court to have remitted the matter to the Medical Council of India or the Union of India for reconsideration, even if it was of the opinion that the order of the Medical Council of India deserved to be

set aside, rather than to have issued a writ of mandamus directing grant of permission." *

14. List these matters as part-heard in the third week of July 2000, for further orders that may be passed in this behalf.