

# **SUPREME COURT OF INDIA**

Chairman, Central Council of Homoeopathy

Vs.

Varinder Singh

(M.J.Rao and Doraiswamy Raju JJ.)

18.07.2000

## **ORDER**

1. There are three appeals before us. Civil Appeal Nos. 8486 of 1998 and 1186 of 1998 are by the Central Council of Homeopathy, and the Civil Appeal No. 3403 of 1998 is by Council of Homeopathic System of Medicine, Punjab. These appeals are preferred against the judgment of the Full Bench of the High Court of Punjab and Haryana, dated 4th September, 1997 in Civil Writ Petition No. 10526 of 1997.

2. The facts are as follows:

The Homeopathic Medical College, Abahor, was established long time back. On 10.5.96, the Central Homeopathy Council agreed to allow up gradation of the College for starting the Degree Course and the Graded Degree Course from 1996-1997 sessions for two years subject to the conditions stated in the said order.

3. The Central Council in response to a letter of the college stated that the college was recognised by the Central Council. On 20th August, 1996, the college issued an advertisement inviting applications for admission to the Diploma Course in Homeopathy. There was a 'note' in the advertisement that the Diploma Course in the college is likely to be converted into Degree Course subject to the approval of the State Council and State Government. It was pointed out that the Central Council had already given approval for upgrading the Degree Course for the sessions 1996-1997.

4. After this advertisement, the Central Council in its letter, dated 4.9.96, objected to the note contained in the above advertisement and pointed out that the Central Council had only allowed up gradation for "starting the Degree Course" and had not given approval for "upgrading the Diploma Course" into a Degree Course. The State Council in a letter addressed to the college on 14.6.97, stated that it was granting approval for starting Degree Course for the session 1997-1998 and that this approval was being granted in view of the recommendations of the Central Council and approval of the State Council. The detailed terms and conditions could be settled after due discussions with the college authorities as per the guidelines issued by the Central Council and the State Council.

5. The problem started when on 21.7.97, the State Council observed that the same students who got admission in the session 1996-97 might be allowed to study for the course as one converted into Degree Course and if there was no complication, efforts should be made to get the Diploma Course

discontinued and the students who would opt for the conversion would pay the fees to the college for a Degree Course as per the revised fee. This was done on the basis of the recommendations of an expert body which was constituted by the State Council.

6. On 23.7.97, the State Council communicated its decision of 21.7.97 to the Central Council in a letter requesting for the approval of the Central Council. On 24.7.97, the Central Council stated that the permission granted by the Government of Punjab for upgrading the Diploma Course into a Degree Course with effect from the year 1997-98 should not have been approved by the State Council. Meantime, the college issued an advertisement inviting applications for admission to the Degree Course in July, 1997.

7. It was at that stage that on 23.7.97, the students filed a writ petition in the High Court of Punjab and Haryana out of which these civil appeals arise, that the Diploma Course to which they had been admitted at the college be allowed to be converted into a Degree Course and that no further admissions pursuant to the said advertisement be made till the writ petitioners became qualified. They pointed out that the students of the Diploma Course at Nehru Homeopathic Medical College & Hospital, New Delhi were permitted to be awarded a Degree by conversion of a Diploma Course, subject to certain conditions. When the matter came up before the Division Bench of the High Court, the Bench passed an order on 4.8.97 referring the matter to the Full Bench in view of certain directions given by another Division Bench in C.W. P.No. 10255/97.

8. The Full Bench allowed the writ petition and issued various directions. It observed that, no doubt, the college authorities could not have issued an advertisement with the 'note' and also pointed out the inaction on the part of the State Council and the Central Council in not taking action immediately. We are initially not concerned with this part of the judgment which deals with various irregularities committed either by the college or by the authorities. But the crucial question now is as to what is to be done with regard to the students who have already been admitted to the Diploma Course and who are seeking conversion into the Degree Course, which has been allowed by the High Court and in regard to which there has been no stay by this Court. The Full Bench noticed that the Diploma Course was of four years. The Degree Course was of five years and six months and the first professional course in the Degree Course was for 18 months. The total hours of study for the Degree Course were 1750 while in the Diploma Course they were 1280 hours.

9. It will be noticed that soon after the students were admitted for taking Diploma Course, there was an order of the Central Council for up gradation of the college. The case of the writ petitioners was that there was a reasonable expectation that those who joined in the Diploma Course could seek for conversion of the Diploma Course into a Degree Course.

10. The Full Bench, therefore, considered what would be the equitable order to be passed in such a situation. It felt that if the students were asked to complete the number of years of study required for Degree Course and the number of hours of study for Degree Course, there should be no difficulty and that this batch of students should be entitled to have conversion of the Diploma Course into a Degree Course. But having held so, the Full Bench also tried to apportion the blame for delay as between various authorities. The Full Bench gave the following directions:

Following the principles enunciated in the cases of Saroj Rani, Gokaraju Rangaraju and Suchinatan (supra) we feel that it would be just, fair and equitable to direct that the expenditure to be incurred on these students for pursuing their Degree Course (excessive period of six months, constituting part

of 1750 hours) shall be borne by the College, State Council and the Central Council in the ratio of 40:30:30 respectively. The amount so paid by the State and Central Council to the College, shall be recovered in accordance with law from all the concerned officers/officials of these Councils irrespective of their status and position. Such recoveries would be effected within a period of six months from today from the erring persons. The enquiry shall be conducted by an officer not below the rank of Secretary/Addl. Secretary in the corresponding Governments as both the Councils are subject to control of the State and Central Government.

11. Against the abovesaid directions allowing the writ petition, subject to above conditions, these various appeals have been filed in this Court.

12. At the time of the admission, this Court passed an order on 3.8.98 staying the directions of the High Court regarding the sharing of the expenditure to be incurred on the students for pursuing the extra months in their Degree Course as apportioned between the College, the State Council and the Central Council in the ratio of 40:30:30. It is now stated by the learned Counsel for the respondents before us (students) that inasmuch as there was no stay in regard to the remaining part of the judgment, the students are in the process of completing the required number of years of study as well as required number of hours and they have also paid the additional fee that was required for a Degree Course in terms of the order passed by the High Court. In other words, they have already completed the period meant for Diploma Course and are now studying in the extra months meant for Degree Course.

13. In the peculiar facts and circumstances of the case and having regard to the orders passed by the Central Council on 10.5.96 and the advertisement given by the college on 20.8.96 with a 'note' and the recommendations of the expert body in favour of the students and the orders of the State Council, we are of the view that the directions given by the High Court so far as allowing the students to complete the required number of years of study or hours of study for acquiring the degree and certificate, need not be interfered with. We also make it clear that the number of hours of study required for each subject for a Degree Course should also be completed. We, therefore, do not want to interfere with this part of the judgment of the High Court.

14. So far as the expenditure for extra period of study as apportioned between the college, the Central Council and the State Council is concerned, we are of the view that the High Court ought not to have gone into the question of expenditure to be borne by anybody other than the students. We do not find any justification for making the college, the Central Council or the State Council responsible for the expenditure for the extra period of study. We, therefore, set aside the direction as set out by us in the paragraph already extracted from the order of the High Court. The entire expenditure for the Degree Course will be borne by the students. We also set aside the directions regarding an enquiry to be conducted as directed by the High Court. We also set aside the adverse observations made against the Central Council and the State Council.

15. Subject to the above observations, the appeals are partly allowed and are disposed of accordingly.

16. We make it clear that the above order are passed in the peculiar facts and circumstances of the case and should not be treated as a precedent in any other case.

17. There shall be no orders as to costs.

