

SUPREME COURT OF INDIA

Medical Council of India

Vs.

Swati Sethi

C.A.No.2731 of 2004

((Mrs.) Ruma Pal and P. Venkatarama Reddi JJ.)

27.04.2004

JUDGMENT

1. Permission to file special leave petition granted.
2. Leave granted.
3. The Medical Council of India has impugned the order dated 15-1-2004 passed by the High Court of Punjab and Haryana allowing the writ petitions filed by several respondents claiming to have been wrongfully deprived of their right to admission to the medical courses. Several such writ petitions were filed. Initially, an interim order was passed in CWP No. 15618 of 2003 on 6-11-2003 by which the High Court directed the respondents' University to provisionally admit the writ petitioners to the first year MBBS/BDS course in accordance with law on merit within seven days. At the time of the grant of interim order it was made clear that the provisional admission granted to the writ petitioners would not confer any right upon them to claim equity at the time of the final disposal of the writ petitions or otherwise and if they were not found eligible or entitled to be admitted to the course then they would have to vacate the seats irrespective of the fact that they might have deposited the fee or spent time in studies.
4. According to the University since the time for compliance was short and because the admission was provisional, they did not challenge the order dated 6-11-2003 but complied with it. All the writ petitioners in the several writ petitions were granted admission on 14-11-2003. Some writ petitioners were granted admission into MBBS course while some writ petitioners were granted admission into BDS course.
5. Neither the Medical Council of India nor the Dental Council of India was made parties to the proceedings as they should have been. It is the Medical Council of India and the Dental Council of India which lay down the time schedule and is responsible for maintaining such timetable as well as the quality and discipline in the medical courses. What was being asked for in effect by the writ petitioners was a change in the timetable fixed by the Medical

Council of India and the Dental Council of India. The courts should not entertain any such plea in the absence of the Medical Council of India and the Dental Council of India.

6. The Medical Council of India has relied upon the decision of this Court in *Medical Council of India v. Madhu Singh* (5) not only to submit that the High Court should not have passed any order without hearing the Medical Council of India/Dental Council of India but also to submit that the time frame was provided for under the Regulations framed under the Medical Council of India Act which had been approved by this Court repeatedly. Our attention was particularly drawn to paragraph 23(vi) of the judgment in *Madhu Singh* case (5). Other submissions were also raised and it was stated that the academic session could not be curtailed by allowing late admissions.

7. Learned counsel appearing for the respondents has, however, submitted that the respondents in this appeal had ultimately been admitted into BDS course which had commenced on 6-10-2003 and that the appropriate authority who would have the locus to make any grievance with regard to the impugned order would be the Dental Council of India alone and not the Medical Council of India. It is also submitted that the entire process followed by the University in this particular case was tainted with fraud which constitutes an exception to *Madhu Singh* case (5).

8. The first submission is unacceptable. The writ petitioners had asked for admission to the medical courses and the High Court has passed the impugned order with regard to MBBS/BDS course. The Medical Council of India is affected by the order. That some of the writ petitioners were ultimately admitted only to BDS course would deprive the Medical Council of India of the locus standi to question the order. We do not intend to go into the merits of the matter at this stage as the Medical Council of India was in fact not heard by the High Court at the time the impugned order was passed. Besides, no reason has been given by the High Court for affirming what was clearly a provisional interim order. We are not expressing any view on the merits of the submissions at this stage. The Medical Council of India and the Dental Council of India are added as party-respondents to the writ petitions. The matter is remitted back to the High Court for being heard and disposed of finally after providing an opportunity of hearing to the Medical Council of India and the Dental Council of India. They are entitled to file their counter-affidavits before the High Court as they may be advised. The High Court is requested to dispose of the matter as urgently as is possible. In the event the High Court comes to the conclusion that no exception can be carved out of *Madhu Singh* case (5) or that there was in fact no such exceptional circumstance as claimed by the writ petitioners then the writ petitioners will be deemed to have been admitted for admission for the academic session 2004-05 within the admissible intake. The appeal stands disposed of accordingly.

SLP (C) No. 7274 of 2004

9. In view of the order passed in Civil Appeal No. 2731 of 2004, we pass no separate order in this SLP.