

SUPREME COURT OF INDIA

Harshalid S/O Sudamrao Wankhede

Vs.

State of Maharashtra & Ors.

Civil Appeal No. ... of 20051

(Y.K. Sabharwal, C.J. S.H. Kapadiaand and C.K. Thakker, JJ.)

26.09 2005

ORDER**Y.K. Sabharwal, C.J.**

1. Leave granted.

2. The appellant, being denied admission in Respondent 3 college in MBBS first year course in Academic Year 2004-2005 despite higher marks in the entrance test, filed a writ petition under Article 226 of the Constitution before the High Court. The said writ petition was dismissed by the impugned Arising out of SLP (C) No. 5955 of 2005 Harshali V. State Of Maharashtra 465 judgment on the ground that direction for grant of admission to the appellant could not be issued after the cut-off date, 30-9-2004, in view of the decision of this Court in Medical Council of India v. Madhu Singh . The High Court has noticed the grievance of the appellant that admission had been given by the college to those who had secured less marks in the entrance test which smacked of mala fide acts of the respondent college. According to the appellant, she waited till 14-9-2004 for grant of admission but it was denied on the ground that some petition was pending before the Court.

3. We have heard learned counsel and perused the record. It seems difficult to comprehend that the appellant would not approach Respondent 3 college for grant of admission after having secured 166 marks. This is further evident from the fact that she had already taken admission in dental course in July 2004 in a college run by the same trust and, thus, it is difficult to believe that she would not approach the college for getting admission in medical course. Now, it stands admitted that at least six students with less number of marks were granted admission on various dates, even if we accept the dates given by the college. The students granted admission had secured marks ranging from 164-132.

4. According to the college, a list of six candidates for six government quota seats, according to merit, was displayed on the notice board on 16-9-2004 along with a waiting list of 27

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candidates. Out of the six, three did not report and admission was granted to three who had secured 164, 159 and 158 marks on 20-9-2004/21-9-2004. For the remaining three seats, admissions were granted to two candidates from the waiting list who secured 143 and 138 marks on 28-9-2004 and the last candidate who was granted admission on 29-9-2004, secured 102 marks. It is stated that the six candidates were asked to report on 20-9-2004 before 5.00 p.m. No such plea was, however, taken in the counter-affidavit filed by the respondent college before the High Court. The manner of grant of admission to less meritorious students and denial of the same to meritorious students and that too while granting admission in government quota seats speaks volumes about the manner in which the admissions are granted by Respondent 3. It is not possible to believe that the appellant would not have approached Respondent 3 college on 14-9-2004, particularly when she had already taken admission in dental course in a college maintained by the same trust. The reasons to grant admission to less meritorious students in this manner are not far to seek.

5. Our attention has also been drawn by the learned counsel for the Medical Council of India as to the manner in which the receipts are given for receipt of the cash amounts from the students and the serial number of those receipts. Be that as it may, we will examine this issue in further detail when considering the issue of compensation/penalty or any further directions, including derecognition of the college if the facts and circumstances so demand.

6. Learned counsel for the college submits that the appellant can be a granted admission in the present Academic Year 2005-2006 out of the sanctioned intake of the college. Learned counsel also states that the appellant would be required to pay only that fee which was required to be paid if admission had been granted against a government quota seat in Academic Year 2004-2005. Further, it is stated that whatever fee has been paid by the appellant for getting admission into dental course for the last year b and this year, due adjustment would be made while calculating payment of fee by her for the admission in the first year MBBS course in the present Academic Year 2005-2006.

7. The question which still requires to be examined, which would be examined later, would also be about the loss of one year of career of the appellant. In view of the aforesaid, we direct that the appellant be granted c admission in the first year MBBS course by 30-9-2005.

8. For considering the remaining issues aforesaid, the matter be listed after one month along with Writ Petition (C) No. 656 of 2004.

9. In the meanwhile, the parties are permitted to place on record additional material, if any.