

RAJASTHAN HIGH COURT

Mrinal Joshi

Vs.

State of Rajasthan

Civil Writ Petns. Nos. 4840, 4923, 4924 of 1999 and Civil Special Appeals Nos. 714, 502, 922 and 1199, 1230 (Def.) of 2000, and 956, 955 of 1999

(Arun Kumar and P.P. Naolekar, JJ.)

30.04.2002

JUDGEMENT

Naolekar, J.

1. In all these cases the question of law requiring consideration by this court and the relief sought are same, arising out of similar set of facts and thus they were heard jointly and are being finally decided by this common order.

The PG students in these cases, who are petitioners in some of the cases and respondents in others, were registered for M.D., M.S. course in the year 1996, except Dr. Varsha Dashora who was registered in the year 1997, after having cleared in MBBS examination with one year's internship. They were allotted their placements in merit list in different subject/ specialties for M.D., M.S. course. Some of them were permitted to change, by reshuffling, their subject/ specialties. The PG students having not completed three years of training in a subject/ specialty before commencement of the examination they were not permitted to appear in the examination. Feeling aggrieved by not getting permission to appear in the examination writ petitions were filed. Under the orders of the Court they appeared in the examination and were declared successful.

2. The case of PG students is that Ord. 278-E of the University of Rajasthan postulates only the period of training for M.D., M.S. course, which is three years, and the period of training is to be completed for grant of Degree, but before completion of three years training one can appear in the examination, as the Ord. 278-E does not prohibit post-graduate students to appear in the examination before completion of the training in M.D., M.S. course. It is further urged that the requirement of three years training is only for the purposes to determine the eligibility of the student before awarding the

Degree in the subject/ specialty and, thus could not be construed as a condition precedent, for appearing in the examination.

The aforesaid submissions found favor of the learned single judge when he held "therefore in my considered view the purpose of Ord. 278-E(V) of the University of Rajasthan is achieved, if a student of M.D., M.S. examination has completed three years period of training before declaration of result of the examination and even that apart, vide Annexure -4 in the instant case, the State Government has allowed all PG students to take up M.D., M.S. examination who have completed more than 80% of total period of training subject to the condition that irrespective of taking of examination they would complete three years training period, and in this view of the matter, since admittedly the petitioners have already completed three years period of training as on 16th/17 July, 1999, it would not be proper to deprive such candidates like the petitioners of their taking M.D., M.S. examination wherein they appeared, which was scheduled to commence on 11-5-99 but postponed to 29-5-99". Thus the learned single judge has taken a view that although the PG students have not completed three years of training before commencement of the examination, they can be permitted to appear in the examination, and it could be seen at the time of declaration of the result whether they have completed three years training in a subject/specialty. The learned single judge further held that if the PG students, under the directions issued by the State Government on 6-4-1999, have completed 80% of the training before commencement of examination, they shall be entitled to appear in the examination. The PG students also placed reliance on the judgment delivered by learned single Judge in *Dr. Arun Kumar Agrawal v. University of Rajasthan* ¹ in support of their contention, wherein it was held that true purpose of Ord. 278-E, even in the light of the Supreme Court judgment, although has to be three years training for appearing in M.D., M.S. examination, it is also imperative to construe that a candidate should complete the required period of training of three years prior to conferment of the Degree of M.D., M.S., but that cannot prevent him from taking the post- graduate entrance examination even though he may be on the verge of completion of such training. Before conferment of such Degree the candidate should not run short of three years.

3. In *Maharshi Dayanand University v. Dr. Anto Joseph*, ² the Apex Court was required to consider the requirements of the Medical Council of India with regard to the period of training, which reads thus :-

"MD/MS

From the year 1993 onwards, the minimum period of training for obtaining these degrees shall be three calendar years and the candidates can be admitted to this training after their full registration with the Medical Council (S).

No exemption shall be given from this period of training of 3 years either for doing Houseman ship or for any other experience or diploma."

The Apex Court held that these requirements are laid down to ensure that the full period of training necessary for acquiring the qualification is completed and it is in the public interest that they are not lightly deviated from.

In *Director, Medical Education, Lucknow v. Dr. Swapnil Chauhan*,³ the Apex Court was called upon to consider a similar circular issued by the Medical Council of India providing minimum period of training for awarding of MD/MS Degree from the year 1993 onwards, of three calendar years and the Court said that the provision makes it abundantly clear that no credit can be given to the respondent for the period of study for diploma for obtaining MD/MS. Three calendar years' minimum training is an essential requisite for the award of post-graduate degree of MD/MS.

4. The aforementioned judgments of the Apex Court clearly lay down that the training of three years is an essential requirement for award of post-graduate degree in M.D., M.S. There cannot be any manner of doubt that the PG students to obtain M.D., M.S. degree, have to complete three years of training. The real question which requires determination by us is, whether under the relevant provisions of the University Ordinances the training has to be completed by the PG students before commencement of the examination or the period can be extended till the PG students' results are declared.

5. The relevant provisions of Ord. 278 of the University of Rajasthan reads thus :-

Ord. 278-C-

"(6) The examinations of D.M., M.Ch., M.D., M.S. and M.Sc. and M.Sc. (Med.) will be held on completion of three years residency training and for D.M. and M.Ch. on completion of two years training. The second examination will be held after six months. Candidates shall not be permitted more than two-examinations in a year, with an interval of six months. In case of postponement of examinations, the PG students appearing at the postponed examination shall be governed by the same syllabus and scheme of examination as were applicable to the original examination .

(7) Every candidate presenting himself for any of these examinations shall submit to the Registrar, University of Rajasthan, through the Head of the Institution, a certificate of having completed his training under the guidance and to the satisfaction of a recognized guide/guides, the courses of study in the subjects of the branch in which he presents himself for the examination and certificate of his having acquainted himself with the subject allied to his specialty and approved by the guide."

Ord. 278 –E

" (v) Period of Training :

The period of training for M.D. and M.S. courses shall be three years after registration of the candidate with the University as a Post-graduate student at an Institution affiliated to the University for training in that particular subject/specialty.

Any candidate, after registration for any of the Degree/Diploma courses, cannot have a break of more than three months at a stretch during the period of training and must appear in the final examination within 5 years of the date of his registration, failing which his registration shall be treated cancelled automatically. No candidate will be permitted to change the place of study/college beyond six months period, in any circumstances.

Further, a candidate selected under general category but later on appointed as Government service (Sr. Demonstrator/C.A.S.) and discontinued the studies during the tenure under three years Residency Scheme, his/her registration shall continue provided he/she has got appointment to pursue his/her studies in the same subject, failing which his/her registration shall be treated cancelled automatically."

6. Under sub-Clause (6) of Ord. 278-C of the University of Rajasthan, the examination of M.D., M.S. is to be held on completion of three years residency training. The second examination is to be held after six months. The candidates shall not be permitted more than two-examinations in a year with an interval of six months. Sub-Clause (7) postulates that any candidate presenting himself for examination of M.D., M.S. shall present to the Registrar, University of Rajasthan, through the Head of the Institution, a certificate of having completed his training under the guidance of and to the satisfaction of a recognized guide/guides. The certificate required to be submitted shall contain the fact that the student has completed his training in the course of study

in the subjects of the branch in which he presents himself for the examination, to the satisfaction of recognized guide/guides. The candidate is also required to furnish a certificate of his having acquainted himself with the subject allied to his specialty and approved by the guide.

7. Ord. 278-E (V) lays down the period of training and it says that the period of training for M.D., M.S. courses shall be three years after registration of the candidate with the University as a post-graduate student in the particular subject/specialty. It further lays down that any candidate, after registration, cannot have a break of more than three months at a stretch during the period of training and must appear in the final examination within 5 years of the date of his registration. There is no controversy in regard to the three years training which is to be completed by the PG student for getting a Degree of M.D., M.S. in a student for getting a Degree of M.D., M.S. in a particular subject or specialty. The PG student must have a training of three years in a particular subject/specialty. Clause (6) of Ord. 278-C speaks of conduct of examination of M.D., M.S. courses which is to be held after three years residency training. Thus, first examination for the PG students who are registered in a particular year has to be held only on completion of three years training and not before that. Clause (7) requires that every candidate presenting himself for the examination of M.D., M.S. courses has to submit a certificate of having completed his training which is, under Ord. 278-E, of three years. The words used in Clause (7) - 'a candidate presenting himself for the examination' - are significant. Any candidate appearing for the examination of M.D., M.S. has to submit a certificate of a guide/guides that he has completed the training under the guidance and to the satisfaction of the recognized guide/guides. Clause (7) makes it abundantly clear that any candidate wanting to appear in the examination has to complete a training as required under Ord. 278-E. Unless and until training is completed, which is of three years, the guid could not issue a certificate that the candidate presenting himself for examination has completed his training to his satisfaction and under his guidance. Presentation of the certificate before examination clearly indicates that the PG student has to complete his training before he can appear in the examination for M.D., M.S. courses. When the words of the statute are clear/unambiguous and when they are not reasonably susceptible to any other meaning, the Courts are bound to give effect to the meaning irrespective of consequences.

When educational bodies, which are experts in their field, lay down certain terms, qualifications and experience for admission to a particular course of studies or for

appearing in the examination, that cannot be curtailed, whittled or relaxed on the basis of convenience of the candidates, unless, of course, it is established to the satisfaction of the Court that terms and conditions laid are arbitrary and unjust and cannot be enforced. Convenience of the candidate has no role to play in the matters of qualifications, experience and for course of studies prescribed. For every PG student registered for M.D., M.S. course, in a particular year, examination shall be held after three years, that is to say for the batch of PG students registered in the year 1996 examination can be held only on completion of three years in the year 1999. Every PG student registered under that batch can only appear in examination, which shall be held after three years. If we permit the PG students to appear in the examination even before the three years of batch is completed, they can appear in the examination held for the batches of previous year, which, in our opinion, is not the scope of the Ordinance referred hereinabove.

8. When we read clauses (6) and (7) of the Ord. 278-C along with Clause (V) of Ord. 278-E, it becomes absolutely clear that the training which is mandatory requirement for the Degree has to be completed before PG students appear for examination. On the face of clearcut provision of Statute/Ordinances, we cannot agree with the decisions under appeal (one of them reported in *Dr. Anil Choudhary v. State of Rajasthan* ⁴ rendered by the learned single Judge and the judgment delivered in (*Dr. Arun Kumar Agrawal v. University of Rajasthan*), ⁵ that it is permissible for PG students, under the Ordinance to complete the training of three years even up till the date the results of the examinations are to be declared. On plain reading of the Ordinance as it stood at the relevant time, the PG students of M.D., M.S. courses have to complete their three years training in a particular subject when they present themselves for the examination.

9. We now turn to another question on the basis of which the learned single Judge has permitted the PG students to appear in the examinations holding that the PG students who have completed 80% of the training period are eligible to appear in the examination as per the directions issued by the State Government, in its letter dated 6th of April, 1999 with the condition that they are required to complete three years of training and that they will be entitled for conferral of Degree of M.D., M.S. only after they complete three years training from the date of registration. The learned counsel for the appellant-State Sri Narendra Jain has brought to our notice, that letter issued by the Government on 6-4-1999 was withdrawn before the examination of the relevant

year commenced on 17-9-1999 as per return submitted by the University in Writ Petition No. 4840/1999, vide order dated 3-6-1999 with immediate effect and, therefore, that letter could not have been given effect to. Apart from this, it is submitted by the learned counsel for the appellant-State that in view of the provisions of the Indian Medical Council Act, 1956 the State Government could not have issued directions for treating 80% of the training period, whereby State while controlling education in the State, impinge on standards in institutions for higher education, sufficient for permitting the PG students to appear in the examination which is not in conformity to the provisions of Order 278-E. We need not go into this question, as the State Government itself has withdrawn the Circular/letter permitting PG students to appear in the examination on completion of 80% of the training period. The fact of withdrawal of letter was probably not brought to the notice of the learned single Judge, which leads to decision by the learned single Judge, whereby PG students were permitted to appear in the examination, they having completed 80% of training period.

10. On the interpretation given by us to the Ord. 278-C (6)(7) and 278-E of the University of Rajasthan, the appeals are to be allowed, but, in the peculiar facts and circumstances of the cases, we do not direct cancellation of the results of PG students. The PG students appeared in the examination, during the pendency of their petitions, under the orders of the Court, held by the University and cleared the same, some of them, as we have been informed, are already employed on the basis of the Degrees conferred on them by the University. The learned counsel for the University Sri Ajeet Sharma also contends that he is not pressing for cancellation of the result; the appeals are filed so that the law on the subject can be settled. It is not the case of the University that the PG students in the meanwhile have not completed the training. The State Government has already spent considerable amount over the training of the PG students; they have appeared in the examination and cleared the same. Now, at this stage, no fruitful purpose will be served to direct them to appear in the examination again, which would be required to be conducted by the University. Keeping in view the aforesaid peculiar circumstances we do not issue the directions for cancellation of the results and the Degrees conferred by the University on PG students.

11. In view of the above, the petitions and the appeals are disposed of.

Order accordingly.

Cases Referred.

1. writ petition No. 2602/97 decided on August 29, 1997
2. (1998) 6 SCC 215
3. (2000) 10 SCC 585: (2001 AIR SCW 2306)
4. (2000) 1 WLC 321: (AIR 2000 Supreme Court 114)
5. writ petition No. 2602/97