

(ii) *Jaram Singh vs. State of H. P. and others* (4).

(8) In *Smt. Kalawati's case* (supra), the Bench allowed interim compensation taking into consideration Section 92-A (No Fault Liability) of the Motor Vehicles Act. The Section provides for the payment of compensation in the sum of Rs. 15,000 on the basis of no fault liability where a motor vehicle accident results in death. This case has no bearing to the facts of the instant case.

(9) In *Jaram Singh's case* (supra), a Bench of the Himachal Pradesh High Court presided over by P. D. Desai, C.J. observed that the writ Court is empowered to award a reasonable sum by way of compensation as an *ad interim* or *interim* measure.

(10) The Bench proceeded on the assumption that *ad-interim* compensation by way of damages be awarded in case when a suit is filed for the relief, the decree will follow as a matter of course. This judgment has not even remotest applicability to the facts of the instant case. The general observations are with reference to peculiar facts of that particular case.

(11) For the reasons aforesaid, this petition is dismissed in *limine*.

P.C.G.

Before : I. S. Tiwana and Amarjeet Chaudhary, JJ.

GULSHAN KUMAR AND ANOTHER,—Petitioners.

versus

MAHARISHI DAYANAND UNIVERSITY, ROHTAK AND
OTHERS,—Respondents.

Civil Writ Petition No. 5631 of 1989

October 6, 1989.

Constitution of India, 1950—Arts. 226 and 227—Admission to various post graduate degree/diploma courses—Condition imposed for regulating the admission to different courses and change of speciality—Such conditions—Whether in public interest.

Held, that the petitioners whose ardent desire is to have admissions in various degree courses cannot be permitted to bypass the

(4) AIR 1988 H.P. 13.

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reasonably framed Rules and Regulations which in our considered opinion have been introduced keeping in view all vital aspects of the matter. Medical education in our country is very expensive. Whether it is a Post-Graduate Course or a Diploma Course, the State has to incur huge amount on teaching faculty, equipments and on other accounts like awarding stipend and fellowship etc. For such highly demanded and expensive courses, the seats are very limited. The public interest calls for that those who are admitted in such courses should complete it and not abandon midway. Such conditions are made keeping in view the public interest at large, and if they are not in consonance with the rights and liberties enshrined in the Constitution of India, they can be suitably directed to be amended or omitted. But in the conditions of the prospectus of the university we do not see any screw loose that calls for fixing the judicial lens and removing any anomaly, for an aspirant after having been selected for a specific course, not less than a Post-Graduate degree course, having regard to limited seats, strictly on merit and performance cannot be allowed to abandon the said Course mid-session and to seek admission to other discipline in total disregard to money and precious time spent on him as the seat, if allowed to be vacated in the mid-session cannot be made available to another student howsoever deserving.

(Para 6).

Civil Writ Petition under Articles 226/227 of the Constitution of India praying that after calling for the records of the case and after perusing the same:—

- (i) to issue a writ in the nature of certiorari auashing condition No. 4(ii) to 4(iv) of Chapter IV of Prospectus and Bulletin of Information for the year 1989 attached herewith as Annexure P/1;
- (ii) to issue any other Writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case;
- (iii) service of notice of motion on the respondents be dispensed with as the matter is urgent one;
- (iv) filing of certified copies of Annexures be exempted;
- (v) costs of the Writ Petition be allowed to the petitioners.

It is further prayed that during the pendency of the Writ Petition, petitioner No. 1 may be allowed to appear for competitive examination for M. S. Orthopaedics and M. D. Radiology and petitioner No. 2 may be allowed to appear for competitive examination for M. D. Paediatrics.

Gulshan Kumar, petitioner in person.

J. L. Gupta, Sr. Advocate with Vikrant Sharma, Advocate, for Respondent No. 1.

B. S. Malik, Advocate, for Respondents Nos. 2 and 3.

JUDGMENT

Amarjeet Chaudhary, J.

(1) Petitioners Gulshan Kumar and Rakesh Seth passed their M.B.B.S. examination from Medical College, Rohtak in the years 1983 and 1985, respectively. Petitioner No. 1 obtained diploma course in Orthopaedics in November 1985 and thereafter he joined M.D. degree course in Department of Pharmacology the duration of which was to expire on May 3, 1989. Petitioner No. 2 joined diploma in Child Health in the month of May, 1987, but failed to clear the same. He took admission in Radiology in July, 1988 and meanwhile he appeared for supplementary examination in diploma in Child Health under the orders of the Civil Courts for which the respondent-University had declined permission on the plea that he had subsequently taken admission in Diploma in Radiology. The duration of Radiology course was to expire in June, 1989. Petitioner No. 1 applied for admission to M. S. Orthopaedics and M. D. Radiology. Similarly petitioner No. 2 also applied for admission to M.D. Paediatrics, a degree course and to M.D. Radiology. According to the petitioners, they applied for respective disciplines being fully eligible but have been denied admission on the plea that as per conditions laid down in the Prospectus and Bulletin of Information issued by the Government Medical College, Rohtak — respondent No. 2 they were not eligible to apply.

(2) The petitioners, therefore, by means of this writ petition prayed for the issuance of a writ of *certiorari* quashing condition Nos. 4(ii), (iii) and (iv) of the Prospectus aforementioned which according to them stood in their way in getting admission applied for.

(3) In the return the respondent-University while controverting the allegations made in the petition, pleaded that the petitioners were not at all eligible to apply for admission to the Post-Graduate Courses for the session 1989-90, for petitioner No. 1 was already pursuing one degree i.e. M.D. Pharmacology whereas petitioner No. 2 though was eligible to apply for admission to degree course in Radiology as he was pursuing Diploma Course in the same subject, but he was not eligible to apply for admission to M.D. Paediatrics.

(4) Challenge in this petition is to the provisions of condition Nos. 4(ii) to (iv) of the Prospectus on the ground that these conditions have been inserted in the Prospectus against the Rules framed

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by the Medical Council of India. Had the petitioners known that they would be ineligible for future admission they would not have sought admission earlier. The respondent-University was under an obligation to have informed them about the conditions of admission at the time when they took admission.

(5) The relevant conditions of the Prospectus sought to be quashed are as under :—

- “4(ii) A student who is admitted to a diploma course shall be eligible to apply for admission to the degree course in another subject, provided he/she should have passed the previous diploma examination. Such candidate shall not be paid stipend.
- (iii) A student who is admitted to a diploma course shall not be eligible to apply for admission to another diploma course.
- (iv) A student who is admitted to a degree course in a subject will not be eligible to apply for either a diploma or degree course in another subject or diploma course in the same subject.”

(6) Admittedly, petitioner No. 1 had not yet completed his previous course i.e. M.D. Pharmacology when he applied for M.S. Orthopaedics whereas petitioner No. 2 was still pursuing diploma in Radiology when he sought admission to M.D. Paediatrics and M.D. Radiology. So obviously as per the provisions contained in the conditions aforequoted, they were not at all eligible to seek admissions to the courses applied for by them. But the laments of the petitioners that engage our attention is that the provisions of the aforesaid conditions of the Prospectus are *ultra vires* of the Regulations framed by the Medical Council of India, inasmuch by imposing these conditions the respondents have taken away their right to freedom to have academic excellence. But the petitioners have not been able to specify how the Rules framed by the University are against any provisions of the Medical Council of India. Moreover, the Rules framed by the Medical Council of India are not mandatory. Even the respondent-University can frame its own Rules and Regulations. The petitioners whose ardent desire is to have admissions in various degree courses cannot be permitted to bypass the reasonably framed Rules and Regulations which in our considered opinion have been introduced keeping in view all vital aspects of the matter. Medical education in our country is very

expensive. Whether it is a Post-Graduate Course or a Diploma Course, the State has to incur huge amount on teaching faculty, equipments and on other accounts like awarding stipend and fellowship etc. For such highly-demanded and expensive Courses, the seats are very limited. The public interest calls for that those who are admitted in such Courses should complete it and not abandon midway. Such conditions are made keeping in view the public interest at large, and if they are not in consonance with the rights and liberties enshrined in the Constitution of India, they can be suitably directed to be amended or omitted. But in the conditions of the Prospectus of the respondent-University impugned by the petitioners, we do not see any screw loose that calls for fixing the judicial lens and removing any anomaly, for an aspirant after having been selected for a specified course, not less than a Post-Graduate degree course, having regard to limited seats, strictly on merit and performance cannot be allowed to abandon the said Course mid-session and to seek admission to other discipline in total disregard to money and precious time spent on him as the seat, if allowed to be vacated in the mid-session cannot be made available to another student howsoever deserving.

(7) The petitioners in support of their contentions, relied upon decisions of this Court in *Parveen Kumar vs. The State of Punjab and others* (1) and *The State of Punjab vs. Dr. Harnek Singh* (2). We are afraid, these authorities are not applicable to the facts of the present case. In *Parveen Kumar's case* (supra) the petitioner after passing M.B.B.S. examination and successfully completing house job firstly in the speciality of medicine and thereafter in the speciality of Paediatrics joined Diploma Course in Child Health which course was one of the requirements to seek admission in the Post-Graduate Course, had in fact, completed his diploma course in Child Health, but in the instant case the petitioners had not completed their respective courses when they sought admissions to other disciplines. Similarly, *Dr. Harnek Singh's case* (supra) is also distinguishable, for that was not a case of admission to any speciality or degree course. In that case the petitioner after obtaining diploma in Anaesthesia had applied for the post of Registrar/Demonstrator in the State Medical Colleges at Amritsar and Patiala. There the selection of the petitioner was also to be considered on the basis of seniority-cum-merit. But the case in hand is on the different lines.

(1) CWP 2335 of 1988.

(2) LPA 185 of 1989.

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Thus, conditions 4(ii) to (iv) of the Prospectus of the respondent-University are quite in order, perfectly valid and in the public interest. There is no violation of rules of natural justice as well.

(8) In result, this petition fails and is accordingly dismissed. However, there is no order as to costs.

P.C.G.

Before : N. C. Jain, J.

MITHU SINGH,—Petitioner.

versus

STATE OF PUNJAB AND ANOTHER,—Respondents.

Criminal Writ Petition No. 56 of 1988

October 14, 1989.

Constitution of India, 1950—Arts. 226 and 227, 14, 19, 21—Punjab Jail Manual—Paragraph 516—B—Petitioner convicted for murdering four persons and sentenced to life imprisonment—Petitioner undergoing imprisonment for about 11 years—Petitioner also earning some remissions—Petitioner claiming Premature release—Conditions for such release—Stated.

Held, that the following principles of law can be the guidelines for deciding the cases of premature release:—

- (i) the heinousness or gravity of the offence is no legal ground to discriminate the case of one accused with the cases of other accused as all the accused have to be treated equally under Article 14 of the Constitution of India;
- (ii) the apprehension of breach of peace and tranquility can also be no ground to withhold the release of a life convict which he is otherwise entitled to within the meaning and ambit of the provisions of paragraph 516-B of the Punjab Jail Manual;