

(2018) 08 RAJ CK 0015

In the Rajasthan High Court

Case No : Spl. Appl. Writ No. 958, 911, 957, 959, 963, 964, 1272, 1273, 1287, 1349, 1340, 1310, 1316, 1317, 1308, 1288, 1289, 1311, 1286 of 2018

Aarti Sharma And Ors. @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 03-08-2018

Acts Referred:

Citation : (2018) 08 RAJ CK 0015

Hon'ble Judges : PRADEEP NANDRAJOG, CJ; DINESH MEHTA, J

Bench : Division Bench

Advocate : R.N. Mathur, Saurab Kripal, Kuldeep Mathur, AA Bhansali, Ravi Bhansali, Vipul Dharnia, Sanjeet Purohit, Sanjay Nahar, Suman Porwal

Judgement

1. Our attention has been drawn to the order dated 27.2.2017 passed by Supreme Court in large number of petitions seeking special leave to appeal.

The order reads as under :-

“We are informed by learned counsel that the Central Government is considering the one-time relaxation for students who did not give the entrance

examination and have been admitted on the basis of 10+2 examination. We are also informed that this is an All India issue which involves students in

fourteen States. In the circumstances, we consider it appropriate that the direction to remove the students from the rolls should be stayed till the

Central Government takes a decision on the eligibility of such students. The Central Government shall take a decision within a period of six weeks

from today. This consideration shall be without a reference to the orders of the High Court.”

2. Subsequent orders in the said SLPs show that the Supreme Court is awaiting decision to be taken by the Central Government.

3. Pertaining to the academic year 2016-17, as per Regulation 6 framed by the

Dental Council of India, admissions to BDS Course had to be on the basis of a National Eligibility cum Entrance Test conducted by CBSE for all medical courses.Â The Regulation contemplated minimum marks at 50

percentile for General Category, 40 percentile for SC, ST and OBC candidates and for differently-abled persons the percentile was 40%.

3. As per Proviso to Regulation 6 (2), if sufficient numbers of candidates in respective category fail to secure the minimum marks, the Central

Government in consultation with the Dental Council of India was empowered to lower the minimum marks.

4. Pertaining to the State of Rajasthan, large number of seats in dental colleges of the State of Rajasthan were lying vacant. Situation arose to

consider exercising power under the Proviso. Unfortunately, the Central Government which had to take the necessary decision in consultation with the

Dental Council of India delegated the task to the State of Rajasthan.Â The State of Rajasthan took a decision on 30.09.2016, reducing the percentile

to the extent of 10%.Â Even after this relaxation seats being unfilled, on 4.10.2016 further relaxation of 5% in percentile was given.Â Seats still

remained vacant.Â The colleges on their own, applying the criteria of merit with reference to the marks obtained at 10+2 level, granted admissions

and it appears that these candidates would be having negative percentile with reference to the entrance test.

5. Action being taken to cancel afore-noted admissions of the candidates; be it with reference to 10 percentile followed by 5 percentile reduction or

those whose admission was granted on the basis of the marks at 10+2 stage, writ petitions were filed, which have been disposed of by the learned

Single Judge vide impugned order dated 20.04.2018.Â The admissions to candidates who were given benefit of 10% and 5% reduction in percentile

have been directed to be maintained.Â Other students have been directed to be discharged from BDS Course with immediate effect.

6. The relevance of the afore-noted direction passed by Supreme Court emerges in the context of the regime prior to CBSE conducting the common

entrance exam.Â In large number of States, admissions were being granted on the basis of the marks obtained at 10+2 level.Â The High Courts had

quashed these admissions.

7. Obviously, noting equities in favour of the students who had no role to play in

the admissions granted and no mischief was alleged against them, the Supreme Court has required the Central Government to take a decision with respect to the eligibility of the students.Â We also note that the directions issued by the High Courts to remove the students from the rolls has been stayed by the Supreme Court.

8. Thus, in our opinion, fitness of things require the Central Government to take a decision, which would be a reasoned decision.Â The decision would take into account the purpose of the Proviso to Regulation 6 (2), which appears to be the lack of sufficient number of candidates in the respective categories failing to secure minimum marks prescribed at the National Eligibility Test and seats going abegging in various dental colleges in the State of Rajasthan.

9. Further, the Central Government would also consider the regularization of the admission given to the students based on 10 + 2 marks while taking the decision as required to be taken by the Supreme Court for other States and admissions made in the previous academic years.

10. Renotify for 24.09.2018.

11. Meanwhile, we direct that the result of the students admitted in the first year examination be provisionally declared and those who have cleared the first year examination be permitted to pursue the second year course as well.Â The students would be permitted to take part in the II Year BDS Examination as well.Â We clarify that no equities will be created in favour of the students.