
(2007) 02 AHC CK 0218
In the Allahabad High Court

Amiya Krishna and Rahul Kumar

APPELLANT

Vs

Dr. Bheem Rao Ambedkar University and Rama Dental
College Hospital and Research Centre

RESPONDENT

Date of Decision : 14-02-2007

Acts Referred:

Citation : (2007) 3 ADJ 353 : (2008) 5 AWC 4404 : (2007) 3 UPLBEC 77

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vineet Saran, J.—Heard Sri M. C. Tripathi, learned Counsel for the petitioners as well as Sri A. K. Tripathi holding brief of Sri Anil Tiwari, learned Counsel for the respondent-University. Pleadings between the parties have been exchanged and with consent of learned Counsel or the parties, this writ petition is being disposed of at the Emission stage.

2. This writ petition has been filed for a direction in the nature of mandamus commanding the respondents to permit the petitioners to appear in the second year examination of B.D.S. Course, which Examinations, had already commenced from 4.10.2006. By an interim order granted by this Court on 5.10.2006, the petitioners were permitted to appear in the second year examination of B.D.S. Course, The operative portion of the said order is quoted below:

The petitioners are students of Second Year B.D.S. Course studying in the College of Respondent No. 2. The grievance of the petitioners is that they are not; being permitted to appear in the Second Year Examination of B.D.S. Course conducted by the Respondent No. 1-University because the results of their 1st Year Supplementary Examination has not been declared.

When the case was taken up yesterday, time was sought by Sri Sanjai Kumar Singh, learned Counsel appearing for the contesting Respondent No. 1, to seek instructions. He also made a statement today that both the petitioners have been

declared pass in the First Year Supplementary B.D.S. Examination which was duly communicated to the Respondent No. 2-College and as such the petitioners would be entitled to appear in the Second Year Examination.

Considering the aforesaid it is provided that the petitioners shall be permitted to appear in the remaining papers of B.D.S. Second Year Examination.

As regards the papers for which the examination have already been held, suitable directions shall be issued on the next date of listing.

(Emphasis supplied)

3. The petitioners have admittedly been declared pass in Supplementary Examination of the papers in which they had initially failed in 1st Year.

4. The submission of learned Counsel for the petitioners is that because of delay in declaration of result of Supplementary Examination, they were wrongly restrained from appearing in the regular Second Year B.D.S. Examination, which started from 4.10.2006 and could appear in papers from 6.10.2000 only after the aforesaid interim order dated 5.10.2006 has been passed by this Court. Now the basic question which remains is with regard to the permission to the petitioners to appear in the paper of Second Year Examination which was held on 4.10.2006. By the interim order dated 5.10.2006, such question was left open to be considered by this Court.

5. Considering the fact that the petitioners were not permitted to appear in the said paper only because of non declaration of result of Supplementary Examination, which was for no fault of the petitioners as the delay was caused by the respondent-University, in my view, the petitioners ought to be permitted to appear in the Supplementary Examination of the said paper which, according to the petitioners, is to be held in March 2007. Further, if the petitioners have already not been granted admission in B.D.S. Third 6-Year Course, they shall be given such admission forthwith. Accordingly, the respondent-University shall permit the petitioners to appear in the Second Year Paper of Physiology (in which they could not appear on 4.10.2006) in Supplementary Examination scheduled to be held in March 2007 or any time thereafter. It is further provided that in case result of such Supplementary Examination is not declared by the University before the commencement of Third Year Examination, the respondent University shall permit the petitioners to appear in B.D.S. Course Third Year examination also and the ground of non-declaration of If result of Supplementary Examination of the petitioners will not come in the way of granting such permission.

6. This writ petition stands allowed to the extent indicated above.