

(2019) 06 JH CK 0017

In the Jharkhand High Court

Case No : Writ Petition (c) No. 1596, 2527 Of 2016

Anup Kumar Singh And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 17-06-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 06 JH CK 0017

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Nitin Kr. Pasari, Amit Kumar, Abhay Prakash, Ashok Kr. Singh

Final Decision : Dismissed

Judgement

1. Both the writ petitions have been listed together for their hearing and accordingly the matter have been head and are being disposed of by this common order/judgment.

2. It is evident from the pleadings made in the writ petitions that the writ petition being W.P.(C) No.1596 of 2016 has been preferred by the students studying in the Singhbhum Homeopathic Medical College while the another writ petition has been filed by the concerned medical college i.e., Singhbhum Homeopathic Medical College.

3. Both the writ petitions have been filed under Article 226 of the Constitution of India whereby and whereunder the decision of the respondent authorities in transferring the students of Singhbhum Homeopathic Medical College to the Mihijam Homeopathic Medical College (respondent No.8) which has been granted amnesty, only in the year 2014-15 and also for quashing the letter datd 19.01.2016 which is directly in conflict with the

statutory provisions as contained in the Act of 1973.

4. It has been submitted by Mr. Nitin Kr. Pasari, learned counsel that sometime in the year 2017, the petitioners have taken no objection from him as such he has got no instruction.

5. Dr. Ashok Kr. Singh, learned counsel appearing for both the Universities, Mr. Amit Kumar, learned counsel appearing for Central Council for

Homeopathy and Mr. Abhay Prakash, learned AC to AAG have jointly submitted that the college in question since was not fulfilling the required

eligibility criteria as laid down by the Central Council for Homeopathy under the provision of the Homeopathy Council Act, 1973, which was found in

the inspection of the aforesaid college upon which it was found by the competent authority that there is lack of infrastructure and the other eligibility

requirement therefore, recommendation was made to cancel the recognition.

The Council has also recommended for transfer of the students studying in the said college to other college/institute looking to their future.

6. In this backdrop of the factual aspect it has been submitted that an institution, if, established and found to be not fulfilling the eligibility criteria as

required under the statute, will not be allowed to carry out the educational work and therefore, since the recommendation has been made for closure

of the aforesaid institution and keeping the interest of the students, they have been transferred to other college, hence, the action taken by the authority

cannot be said to suffer from any infirmity.

7. Having heard the learned counsel for the parties and looking to the factual aspect by going across the pleadings made in the writ petitions as also

the affidavits, it is evident from the counter affidavit filed on behalf of the Central Council for Homeopathy which is the statutory and nodal body to

accord recognition to such institutions wherefrom it is evident that the institution in question is not fulfilling the required parameters fixed therein and

therefore, the recommendation to cancel the recognition has been made and in consequence thereof, the students who have been admitted have been

directed to be shifted to other institution looking to their future.

8. In view of such fact that when in a statutory provision has certain conditions, it is incumbent upon one or the other institution to strictly follow the

same otherwise there will be no purpose of the enactment.

9. This Court after keeping the aforesaid aspect of the matter into consideration is of the view that the authority in taking such decision has not committed any error/infirmity.

10. In view thereof, this Court is not inclined to interfere with the decision taken by the authority, hence, both the writ petitions fails and are dismissed.