
(2016) 04 JH CK 0074
In the Jharkhand High Court
Case No : W.P. (C) No. 1596 of 2016

Anup Kumar Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 08-04-2016

Acts Referred:

Citation : (2016) 3 JBCJ 542 : (2016) 3 JCR 438

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. N.K. Pasari, Advocate, for the Appellant; Mr. Rajiv Sinha, ASGI and B.K. Prasad, JC to ASGI, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Aparesh Kumar Singh, J.—I.A. No. 1961 of 2016

Petitioners, who are said to be students of Singhbhum Homoeopathic Medical College & Hospital, Jamshedpur, respondent no. 7, have sought an interim relief for allowing them to appear in the examination scheduled from 12.04.2016 as published by the respondent, Vinoba Bhave University, Hazaribagh for 1st, 2nd, 3rd and 4th Bachelor of Homoeopathic Medicine and Surgery. The programme schedule is at Annexure-IA/2 to the I.A. No. 1961 of 2016.

2. The writ petition has been filed by some students on 18.03.2016 with a grievance relating to transfer of the students of respondent-7, Singhbhum Homoeopathic Medical College & Hospital, Jamshedpur to Mihijam Homoeopathic Medical College & Hospital, Mihijam, Jamtara alleging no basic amenities/infrastructure available. These students are all of different Sessions i.e. for the Session 2008-09 till commencement of Session 2013-2014, each of which course of BHMS is five years duration.

3. Respondent-University was allowed time to file counter affidavit on 28.03.2016 and the matter was posted for 11.04.2016. In between, the instant Interlocutory Application has been preferred for interim relief on 04.04.2016 on

which the University asked to submit their response on 06.04.2016. University with promptitude have filed their counter affidavit. Question posed on the instant Interlocutory Application is whether in the circumstances available on records, permission to allow these petitioners to appear in BHMS exam for different years scheduled from 12.04.2016 could be granted and would be proper in the eye of law.

4. What has been noticed from the pleadings of the counter affidavit and the enclosed annexures such as Annexure-A inspection report dated 03.07.2014, another inspection conducted vide Annexure-F on 18.02.2015 and 3rd Inspection conducted on 05.11.2015, Annexure-J all by Central Council of Homoeopathy that there are practically no infrastructure and facilities in the college. It is not even a Society registered under the Societies Registration Act for carrying out teaching activities to the students admitted till 2013-14 batch. Remarks in any one of the report is reflective of abysmal state of affairs of the college so far as provision of infrastructure, clinical facilities, laboratories, teaching staffs etc. is concerned, Central Council of Homoeopathy, therefore, chose to recommend withdrawal of recognition to the Central Government, vide Annexure-D dated 01.01.2015 and also informed the Department of Health & Family Welfare, Government of Jharkhand, vide Annexure-E dated 12.02.2015 of the proposed action. It is also evident from Annexure-C, dated 14.11.2014 and reflected in Annexure-E dated 12.02.2015 that the respondent-College was directed to stop admission from the Session 2014-15 till compliance of conditions and acceptance thereof is made by Central Council of Homoeopathy by the respondent-University. There has been correspondence between Central Council of Homoeopathy such as Annexure-G with the University on the question of migration of students of Singhbhum Homoeopathic Medical College & Hospital, Jamshedpur to other Homoeopathic Medical College in the State of Jharkhand. Affected students, several in numbers have also represented before the respondent-University vide Annexure-M dated 26.02.2016 requesting them to conduct their examination in the aforesaid state of affairs prevailing in the College and if not then transfer the students to any other recognised college in Jharkhand and thereafter conduct the examination. The University took decision on the same day to transfer the enrolled students of Singhbhum Homoeopathic Medical College & Hospital, Jamshedpur of 1st, 2nd, 3rd and 4th year to Mihizam Homeopathic College, Mihizam under its jurisdiction where the transferred students will compensate their required attendance through theory and practical classes. It is also indicated therein that students are being transferred to respondent no. 8 college as seats are still vacant there for admission in view of the Central Council of Homoeopathy directions. The University decided to obtain information regarding completion of required percentage of attendance of the students from the Principal/Head of Mihizam Homeopathic College, Mihizam and thereafter accept their registration and examination forms. It indicated that a separate examination for transferred students of respondent no. 7-College would be conducted.

5. Learned counsel for the respondent-University has, while in course of his submission drawing attention to several reports of Central Council of Homoeopathy in respect of respondent no. 7 College, submitted that decision to transfer the students of Singhbhum Homoeopathic Medical College & Hospital, Jamshedpur to Mihijam Homoeopathic Medical College & Hospital, Mihijam, Jamtara has been taken in the best interest of the students and to save their career from being ruined. The other two Homoeopathic Colleges at Godda & Garhwa have their seats full and this is the only college, which has seats available and is enjoying amnesty granted to it by the Central Council of Homoeopathy vide letter dated 07.12.2015.

6. Learned counsel for the respondent-University further submits that in such an exceptional situation the best that could be done to save the career of the innocent students studying in Singhbhum Homoeopathic Medical College & Hospital, Jamshedpur is being done and all efforts would be made on the part of the University and the college to ensure impart of teaching and completion of the syllabus and curriculum within the time frame where after as per the norms of the University and on fulfilment of required percentage of attendance by the respective students, a separate examination could be held for the students of different batches.

7. Learned counsel for the petitioners has an apprehension that Mihijam Homoeopathic Medical College & Hospital, Mihijam, Jamtara in respect of which also there was an inspection carried out by Central Council of Homoeopathic, may not have adequate infrastructure and teaching facilities to cater the need of the transferred students like the petitioners though amnesty has been granted to it by the Central Council of Homoeopathy. Documents enclosed to the writ petition is being referred to by counsel for the petitioners to countenance the submission of learned counsel for the respondent-University that Mihijam Homoeopathic Medical College & Hospital, Mihijam, Jamtara may not be in a better position to impart teaching for these transferred students.

8. The narration of facts made here in above can in no sense be said to convey even an acceptable state of affairs, what to talk of an ideal state of affairs in any such institution. The larger interest of the career of the students is upper most in the mind of the Court and as is apparent in the mind of the University also. It defies reason as to why the college, which has over a period of time admitted large number of students in different Sessions for five years, BHMS Course is sitting behind and not improving the state of affairs of the college in question putting the career of these students in jeopardy.

9. This Court is conscious of the fact that control and regulations of academic affairs of any such institution is within the domain of experts and affiliating body like the respondent University and the Central Council of Homoeopathy. Keeping into light the attendant facts noted here in above, the stand of the University to transfer these students to Mihijam Homoeopathic Medical College & Hospital, Mihijam, Jamtara for ensuring completion of their courses and thereafter to

undertake a special examination for each of the Sessions cannot be faulted on any plausible grounds. The best which appears to be possible in the circumstances is being done by the respondent-University in the aforesaid state of affairs.

10. The plea of these petitioners-students to allow them to take examination scheduled from 12.04.2016, therefore, is not worthy of being accepted. The University has solemnly professed to ensure protection of the academic interest of the students. This Court would at this stage prefer to go by their word. This, however, does not absolve the respondent no. 7 college from its responsibilities and from being answerable to the present state of affairs.

11. Therefore, while rejecting the interim prayer made in the instant Interlocutory Application, let notices be issued upon the respondent no. 7 to respond to the averments made in the writ petition and larger issue involved, under registered cover with A/D for which requisites etc. be filed within one week.

12. Let notices be also issued upon the respondent no. 8 under registered cover with A/D for which requisites etc. be filed within the same time.

13. Learned ASGI and State of Jharkhand would also seek instruction in the meantime from the concerned authorities and file their response.

14. List this case after four weeks on 12.05.2016.

15. I.A. No. 1961 of 2016 stands disposed of.