

(2002) 12 SC CK 0016

In the Supreme Court Of India

Case No : 9999 No.-000344-000344 / 2002

Asheesh Pratap Singh and Others

APPELLANT

Vs

M. Sachdeva and Others

RESPONDENT

Date of Decision : 19-12-2002

Acts Referred:

Indian Medical Council Act, 1956 — Section 10A

Citation : (2003) 2 ACR 1932 : AIR 2003 SC 2125 : (2003) AIRSCW 140 : (2002) 10 JT 511 : (2003) 2 SCC 309 : (2002) 5 SCR 552 Supp : (2003) 1 Supreme 430 : (2003) 1 UC 478

Hon'ble Judges : S. Rajendra Babu, J;P. Venkatarama Reddi, J

Bench : Division Bench

Advocate : Gopal Subramaniam, Vishwajit Singh and Chanchal Kumar Ganguli, for the Appellant; R.N. Trivedi, A.S.G., Harish N. Salve R.C. Verma, Mukesh Verma, Abhishek Atrey, Ashwani Bhardwaj, S.P. Sharma, Maninder Singh, Pratibha M. Singh, Angad Chopra and Ankur Talwar, for the Respondent

Judgement

1. 32 writ petitions had been filed before this Court by the students who had qualified themselves in the CPMT examination held in June 1998 for admissions to medical colleges in the State of U.P. and they were called for counselling for the MBBS seats available in Azamgarh Medical College run by the All India Children Care and Education Development Society. They deposited the necessary fees and started attending the classes from July 12, 1999 and the 1st Professional examination was held in May 2000 and all of them have cleared their first professional. When they came to join the 2nd professional course, certain deficiencies in the College were noticed by the Medical Council of India [for short "MCI"] and, as directed by this Court by an order on 4.5.2002 in Civil Appeal arising out of an order made by the High Court, the said College came to be closed. In those circumstances, this Court directed the MCI and the Directorate General of Medical Education to accommodate the students who had been admitted in this College in appropriate institutions.

2. Now a complaint is made before us that neither the MCI nor the Directorate

General of Medical Education have taken the necessary follow up steps to give effect to our order.

3. It is clear that these students had passed their entrance examination and they have been allocated seats after counselling in the said College which is now closed. It is in those circumstances that we made the order in question, which is complained not to have been implemented.

4. The Directorate General of Medical Education took the stand that the complaints before us have been studying in the second professional after passing the first professional and, therefore, they have got to be accommodated in the second professional in other colleges. The MCI had indicated in their letter dated 3.4.2002 that the Migration Sub-Committee will consider the transfer of students and that the applicants were required to complete the application form as per the draft application and the regulations of MCI and to send the same to the MCI. Certain colleges reported that there were seats vacant in those colleges and the Directorate General of Medical Education proposed that the students be accommodated as follows:

5. All the students shall be considered for accommodation in the available recognised medical colleges as per the ratio of the admission strength on the basis of the option of merit [marks obtained in 1st professional] cum college. The admission strength of recognised colleges which was sent earlier [7 Government Aided and one private] has been closed again. The marks sheet of the 1st professional result of the students has been obtained from Medical College Azamgam. As per the admission strength of concerned colleges, the 50 students of Azamgam are proposed for transfer as per the chart below:

Name of College Admission Proposed No. of seats in Strength ratio of Admission strenth For the accommodation of 50 students

K.G. Medical College 185 11 Lucknow University

G.S.V.M. Medical College, Kanpur 191 11

S.N. Medical College, Agra 123 7

M.L.N. Medical College, Allahabad 102 6

L.L.R.M. Medical College, Meerut 100 6

M.L.B. Medical College, Jhansi 50 3

B.R.D. Medical College, Gorakhpur 50 3

Santosh Medical College, Ghaziabad 50 3 ---- ---- 851 50 ---- ----

6. The stand of the MCI now is that no medical college in view of the mandatory provisions of Section 10-A of Medical Council of India Act is permitted to make even a single admission over and above its annual intake capacity and in this context reliance is placed on the decision of State of Punjab v. Renuka Singhla,

[1994] 1 SCC 175 , and that neither the Directorate General of Medical Education of U.P. nor any other authority of the State has approached the MCI by any application u/s 10-A of the Act for seeking increase in the existing annual intake capacity of any of the recognised Government Medical Colleges in the State of U.P. by providing proportionate additional infrastructure and, therefore, question of granting admission must be worked in the recognised Government Medical College for the academic session 2002-2003 within the annual intake capacity fixed for these colleges.

7. The main difficulty in this case has arisen because the students had been allocated to the College after they passed their entrance examination but that College did not have the necessary infrastructure and which came to be closed thereafter. The authorities are squarely to be blamed in this matter in not having ascertained the position before allocating the students to different colleges. We gave enough time to both the MCI and the Directorate General of Medical Education of U.P. to work out an appropriate solution in this regard. They have failed to do so. On one hand, the MCI takes the stand, as indicated above, while on the other hand, the stand of the Directorate General of Medical Education of U.P. is that all the seats have been filled up in the respective colleges and, therefore, it is not possible to accommodate the students now. That way, both the MCI and the Directorate General of Medical Education of U.P. have frustrated the orders of this Court by depending upon various provisions of the Act and the difficulty in having filled up the available seats in the respective colleges. It is no doubt true that the MCI should stick to the norms fixed in its Regulations and even one time increase cannot normally be granted. We find that when the students have already passed the first professional, to ask the students to take the same examination once again will be highly inequitable.

8. In these circumstances, we direct on the special facts of this case :

(1) The MCI and the Directorate General of Medical Education of U.P. to work out a solution in such a manner that all the students be accommodated in respect of whom directions have been given in these matters in respective colleges in the second professional examination.

(2) The seats that have to be provided to these students shall be allocated in different colleges after finding out the total infrastructure available in each of the college which shall be adjusted over the time by reducing the intake in the next years so that the overall strength of the college does not get enhanced and the infrastructure is available to all the students within the intake allocated to the college. For example, if the intake of the college is 50 in the first year, all of them may not necessarily get through to the second year and so on. With resultant vacancies, as long as the admissions are within the total intake of such college through in some year/class intake is slightly less or more, the MCI shall deem that its regulations have been fulfilled.

(3) The MCI and the Directorate General of Medical Education of U.P. shall

comply with this process and make a report to this Court on 14.01.2003.

9. List the matter on 14.01.2002. The Director General, Medical Education & Training, U.P. shall be present in person on that date.