

(2021) 07 UK CK 0244

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 3058 Of 2019

Ashish Dhiman & Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 30-07-2021

Acts Referred:

Indian Medical Degrees Act, 1916 — Section 3
Uttarakhand Under Medical Faculty Rules, 1926 — Rule 13

Citation : (2021) 07 UK CK 0244

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Kurban Ali, Manoj Kumar, T.S. Phartiyal, G.S. Negi, Atul Bahuguna

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Heard learned counsel for the parties through video conferencing.
2. Petitioners pursued Radiologist/X-ray Technician Course from Government I.T.I. Doiwala, Dehradun and, upon successful completion of the course, certificates were issued to them. Petitioners approached Uttarakhand State Medical Faculty for registration of the said qualification.
3. Since Uttarakhand State Medical Faculty was not registering petitioners's qualification, therefore, they filed Writ Petition (M/S) No. 1949 of 2013, which was allowed vide order dated 06.09.2017 and the Competent Authority was directed to register name of the petitioners within three weeks. The said judgment was challenged by Secretary, Uttarakhand State Medical Faculty by filing Special Appeal No. 1024 of 2017.
4. A Division Bench of this Court vide judgment dated 25.03.2019 modified the judgment rendered by Writ Court and directed the State Medical

Faculty to consider registering the name of the petitioners as Radiology Technicians in terms of the certificates issued in their favour by Government

I.T.I. Doiwala. In compliance of the judgment rendered by Division Bench of this Court, the Secretary, State Medical Faculty considered the case of

the petitioners for registration of their names as Radiology Technicians and rejected their claim vide order dated 20.06.2019. Thus, feeling aggrieved,

petitioners have again approached this Court seeking the following reliefs:-

â??(I) Issue a writ order or direction in the nature of Certiorari quashing the impugned orders dated 20th of June 2019 (Annexure no. 2) by which

decline to register the names of the petitioners with State medical faculty.

(II) Issue a writ in the nature of mandamus commanding and directing to the respondents authorities to permit the petitioner to serve/work as

radiologist/x-ray technician in Govt. or other department/institutions without being registered with state Medical faculty.â??

5. In the rejection order dated 20.06.2019, it has been stated that Government I.T.I. Doiwala was not recognized for running the course and it had

started Radiology Technician course without any authority of law and Uttarakhand State Medical Faculty had issued one letter dated 24.02.2009

asking Government I.T.I. Doiwala not to run such course. It is further stated that Uttarakhand State Medical Faculty alone is entitled to run

paramedical courses in Uttarakhand under Medical Faculty Rules, 1926 and further that Government I.T.I. Doiwala had not followed the syllabus

fixed by Uttarakhand State Medical Faculty.

6. Mr. Kurban Ali, learned counsel appearing for the petitioners submits that the course undergone by the petitioners is recognized by State Council

for Vocational Training and furthermore the said course was conducted by a Government I.T.I., therefore, Uttarakhand State Medical Faculty, being

a government body, cannot decline to register the qualification obtained by the petitioners from a government institution.

7. Mr. Atul Bahuguna, learned counsel appearing for respondent no. 4 has placed reliance upon Indian Medical Degrees Act, 1916. The said Act was

enacted to regulate the grant of titles implying qualifications in Western Medical Science. Section 3 of the said Act confers the right of conferring or

issuing degrees, diplomas, licences, certificates etc. only to the authorities specified in the schedule or to such other authority as the State Government

by notification authorize. Grant of degrees, certificates etc. by any other person is thus barred.

8. In exercise of power under Section 3 of the aforesaid Act, the Governor-General in Council authorized U.P. State Medical Faculty to confer, grant

or issue, diplomas, license, certificates etc. in Western Medical Science, vide notification dated 16.12.1926.

9. Mr. Atul Bahuguna has also referred to the Rules under which U.P. State Medical Faculty was established. Rule 13 of the said Rules is

reproduced below:-

B. A recognized institution for the purpose of the rules framed under these rules will be an institution recognized by the Uttar Pradesh State

Medical Faculty.

10. Mr. Atul Bahuguna, learned counsel appearing for Uttarakhand State Medical Faculty further submits that the aforesaid Rules of 1926 have been

made applicable in State of Uttarakhand by Adaptation & Modification order dated 07.11.2002. He has also placed reliance upon another notification

dated 07.11.2002, which provides that instructions/training to students admitted in Radiography (X-Ray Technician), Radiological Technician and

Laboratory Technician courses shall be given in recognized Medical Colleges of the State in conjunction with Government Hospital, Dehradun/Base

Hospital, Haldwani. Based on the aforesaid document, learned counsel for respondent no. 4 submits that since the institution, from where petitioners

have obtained Radiology Technician Certificate, is not recognized by Uttarakhand State Medical Faculty, therefore, the petitioners' qualification

cannot be registered by respondent no.4.

11. Learned counsel for respondent no. 4 has further referred to the Policy issued by the Uttarakhand Government on 12.03.2003 for grant of

Diploma in Para Medical Courses. Paragraph no. 2(2) of the said Policy provides that 'No Objection Certificate' by the State Medical Faculty

would be issued to an institution for imparting instructions in Paramedical Courses only when such institution fulfills the laid down norms regarding

land, building, financial management, hospital etc. He further submits that institution, from which petitioners have obtained Certificate in Radiology

Technician, has neither obtained 'No Objection Certificate' from Uttarakhand State Medical Faculty for running the course nor Uttarakhand

Medical Faculty has recognized the said course, therefore, the qualification obtained by petitioners cannot be registered by Uttarakhand State Medical Faculty.

12. Learned counsel for the petitioners submits that the institution, from where petitioners have obtained Radiology Technician Certificate, is recognized by State Council for Vocational Training and the said institution is run by the State Government, therefore, respondent no. 4 cannot decline to register petitioners' qualification.

13. The said submission made on behalf of the petitioners cannot be accepted. State Council for Vocational Training deals with technical courses; while, recognition to Para Medical Courses is dealt with by the Authorities created under Indian Medical Degrees Act, 1916 and the Rules framed thereunder. Thus, merely because the course pursued by the petitioners is recognized by State Council for Vocational Training will not entitle them to get their names registered with Uttarakhand State Medical Faculty, which has been established under the Rules framed under Indian Medical Degrees Act, 1916.

14. Since the institution, from where petitioners obtained Radiology Technician Certificate, was neither given 'No Objection Certificate' by Uttarakhand State Medical Faculty nor it is recognized by Uttarakhand State Medical Faculty, therefore, no mandamus can be issued to Uttarakhand State Medical Faculty to register the qualification of the petitioners.

15. Accordingly, the writ petition fails and is dismissed.

16. There will be no order as to costs.