

(2013) 01 SC CK 0053

In the Supreme Court Of India

Case No : C.A. No's. 440-441 of 2013 (Arising out of SLP (C) No's. 17691-17692 of 2012)

Devasmita Chakraborty and Others

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 16-01-2013

Acts Referred:

Citation : (2013) 2 SCALE 40

Hon'ble Judges : Altamas Kabir, C.J.; Vikramajit Sen, J; Jasti Chelameswar, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. Leave granted. These appeals arc directed against the judgment and order dated 16th May, 2012, passed by the Division Bench of the Calcutta High Court in MAT No. 653 of 2012 challenging the order of the learned Single Judge, rejecting the Appellants' prayer to pass interim orders regarding the acceptance of their Registration Forms. The writ Petitioners, who arc the Appellants herein, are students who were admitted in the MBBS Course in the Medical College established by the Indian Centre for Advancement of Research and Education under the name and style of ICARE. pursuant to the affiliation granted by the West Bengal University of Health Sciences on 18th August, 2010. It appears that the Essentiality Certificate, which had been granted, was subsequently withdrawn on 16th November, 2011, as also the order dated 28th November, 2011. passed by the University withdrawing its consent to affiliation. On 9th December, 2011, the Medical Council of India also withdrew its letter of permission. Consequently, the Appellants, who had been admitted to the MBBS Course, were not allowed to register their names for appearing for the examination for the Academic Session 2011-2012.

2. The Appellants' prayer for interim relief had been rejected, both in the writ petition as also in the appeal. The present appeals were filed by the students and, in the pending special leave petitions, an interim order was passed on 25th

May, 2012, to the following effect:

...Looking to the facts and features of the case, we grant permission to the Petitioners to appear in the aforesaid examination, subject to their depositing the requisite fees and completion of requisite attendance, as contemplated under the relevant rules and Regulations. They would be allowed to appear in the Examination, but their results would not be declared and be kept in sealed covers and they would not claim any equity in their favour.

Respondents are directed to accept Petitioners concerned Forms and fees and issue Admit Card at the earliest to enable them to appear in the examination.

3. Pursuant to the aforesaid interim order, the Appellants were allowed to participate in the First Year Examination, but their results have been withheld in terms of the above order. I.A. Nos. 11-12 of 2012 were, thereafter, filed in the special leave petitions, inter alia, for a direction upon the concerned Respondents to declare the results of the Appellants for the First Year MBBS Examination, which was conducted by the Respondent Nos. 5 and 6, and the results have been kept in a sealed cover, pursuant to the directions of this Court.

4. While the Special Leave Petitions were pending in this Court and after the interim order had been passed, the writ petition was taken up for disposal by the Calcutta High Court and, by judgment and order dated 1st August, 2012, the High Court allowed the writ petition and set aside the orders by which the Essentiality Certificate had been withdrawn by the State of West Bengal, the withdrawal of consent by the University and the withdrawal of the permission letter by the Medical Council of India to establish the Medical College. By the said judgment, the High Court also directed the Respondents to allow the Petitioners to continue the MBBS Course commenced for the Academic Session 2011-2012 and to see that the students found no difficulty in pursuing their studies. The said order was made, subject to the condition that the fees to be charged would be decided by a Committee, which had been set up by the High Court, known as the "Bisi Committee", headed by a retired Judge of the Calcutta High Court.

5. Understandably, the State of West Bengal has preferred an appeal against the said order of the learned Single Judge and the matter is now pending before the Division Bench of the High Court. Admittedly, an application was made before the Division Bench for stay of the operation of the impugned judgment of the learned Single Judge, but the same was refused. Subsequently, the Appellants herein have prayed for a direction on the Respondents concerned for declaration of their results.

6. Having heard Mr. P.P. Rao, learned senior counsel appearing for the Appellants/ students. Mr. Altaf Ahmad and Mr. R.S. Suri for the College and the Society concerned, as also Mr. Avijit Bhattacharjee, appearing for the State of West Bengal, Mr. Soumitra Chowdhuri, appearing for the University. and Mr. Nidhesh Gupta, appearing for the Medical Council of India, we are of the view that, since the writ petition has succeeded and specific directions have been given which

though, pending in appeal, have not been stayed, it would be in the interests of justice that the prayers made in I.A. Nos. 11-12 of 2012, as also the appeals themselves, should be disposed of.

7. Accordingly, we allow the appeals and the I.A. Nos. 11-12 of 2012 as also I.A. Nos. 13-14 of 2013 and direct that the results of the examination taken by the Appellants in respect of the First Year MBBS Course for the Academic Session 2011-2012, which has been kept in a scaled cover, as directed, be declared forthwith.

8. Incidentally, it may be indicated that a writ petition, being W.P. No. 4481 of 2012, which had been filed by the students regarding their admission into the First Year MBBS Course has been partially allowed by the High Court and one of the issues involved has been referred to the larger Bench and the said matter is still pending. We make it clear that we are not expressing any views as far as the pending matter is concerned and the same may be decided on its own merits. There will be no order as to costs.