
(2002) 02 JH CK 0082

In the Jharkhand High Court

Case No : Writ Petition (C) No. 929 of 2002

Devendra Nath Tiu and Another

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 13-02-2002

Acts Referred:

Indian Medical Council (Post Graduate Medical Education) Regulations, 2000 — Regulation 9

Citation : (2002) 02 JH CK 0082

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : G.K. Sinha, Krishna Murari and A. Pandey, for the Appellant; A.K. Sinha S. Arun, S. Saurabh and B. Shastri, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Petitioners are aggrieved by the decision of the respondents refusing to take admission of the petitioners in the P.O. Course of Medical Science without production of internship completion certificate.

2. Petitioner appeared in the Post-Graduate Medical Admission Test (P.G.M.A.T.) 2001 held by Jharkhand Combined Entrance Competitive Examination Board and became successful. The respondents thereafter published a notice in the newspaper directing all the candidates to appear for counselling/interview scheduled to be held on 31.1.2002. Petitioners accordingly appeared but the respondents demanded certificate relating to completion of rotating internship. Petitioner was not allowed to participate in the counselling/interview without completion of internship certificate. Aggrieved by the said decision petitioners, moved this Court by filing W.P. (C) No. 688/2002. This Court after considering the relevant clause of the prospectus and the advertisement held that petitioners can not be allowed to appear in counselling/interview and is not eligible to be admitted in P.G.M.A.T. till completion of rotating inter-ship. However, this Court made certain observation to the effect that petitioner may approach the

competent authority with a request to allow them provisionally to appear in the counselling/interview and to admit them after March. 2002 and the respondents may consider their case sympathetically.

Petitioners' case is that they approached the concerned authority and the authority allowed them to appear in the counselling but again they were directed for production of internship completion certificate for taking admission in the P.G. Course.

3. Counter-affidavit has been filed by respondent Nps. 2 and 3 stating inter alia that petitioners are not qualified for getting admission in the P.G. Course in terms of advertisement. They have not produced certificate of rotating internship. It is stated that they are till today have not completed the rotating internship. Respondents denied the statements of the petitioners that in terms of the direction of this Court they were allowed to appear in the Counselling/interview.

4. As noticed above, petitioners earlier moved this Court by filing W.P.(C) No. 688/2002. Learned Single Judge in his order considered Clause 3(3.1) of the prospectus which lays down the educational qualification and eligibility for appearing in P.G.M.A.T. 2001. The said Clause reads as under :

"Qualification and Eligibility for Appearing in PGMAT, 2001.--3.1 Educational :

(i) The candidates must have passed MBBS Examination from any University/ Medical College of Jharkhand State.

(ii) The candidates must have completed the rotating internship.

(iii) The candidates must have obtained permanent Registration from Medical Council of India or Jharkhand State Medical Council-

(iv) The candidate who passed MBBS Examination from any Medical College which is included in the Schedule of the Indian Medical Council Act, and is situated outside Bihar is also eligible as per the directive of Hon'ble High Court, Patna CWJC No. 12338/2000, provided he is a permanent resident of Jharkhand.

(v) The candidates who have passed MBBS Exam from any University/Medical College as per the requirements above but have not completed the rotating internship may be allowed to appear in PGMAT-2001 on provisional basis but they must complete the rotating internship before the date of counselling/interview of PGMAT-2001, otherwise they will not be allowed to participate in the counselling/interview.

(vi) A candidate, who did not obtain permanent registration from Medical Council of India or Bihar State Medical Council but is otherwise eligible, may be allowed to appear in PGMAT-2001 on provisional basis but he must obtain the same within one month from the date of his admission in P.G. Course as per the rules of the Medical Council of India, failing which the admission of the candidates shall be cancelled. Also, he must be registered after admission under the concerned University within the period prescribed by that University.

5. Taking into consideration the aforesaid Clause, this Court held that the candidates who have not completed rotating internship, cannot be admitted as per eligibility criteria laid down in the prospectus. Learned Single Judge refused to grant relief by holding as under ;

"In the circumstances, as the petitioner applied with open eye that he will have to complete rotating internship before the date of counselling/internship and has not yet completed the rotating internship which he will complete sometime in March, 2002, the petitioner cannot be allowed to appear in counselling/interview being not eligible to be admitted in PGMAT Course till completion of rotating internship."

6. However, learned Single Judge made the following observation :

"If it is the intention of the petitioner that the respondents should allow him provisionally to appear in the counselling/interview and to admit him after March, 2002, he may approach the competent authority, who will consider the matter sympathetically."

7. Petitioners' case is that they were allowed for the counselling but again respondents demanded internship completion certificate, while respondents' case is that they were not allowed for counselling/interview and the respondents refused to take admission on the ground that they have not completed rotating internship.

8. Learned Counsel for the petitioners put heavy reliance on the prospectus of "ALL INDIA ENTRANCE EXAMINATION" FOR ADMISSION TO POST GRADUATE COURSE IN ANY INSTITUTE OF MEDICAL SCIENCE." And submitted that relaxation was given to those candidates who have not completed compulsory rotating Internship for production of certificate before 31st March. 2002. Learned Counsel submitted that taking into consideration the prospectus of All India Institute of Medical Sciences, respondents ought to have taken provisional admission of the petitioners. I am unable to accept the contention made by the learned Counsel. Regulation 9 of Medical Council of India (Post-Graduate Medical Education Regulations, 2000) provides that selection of Post-graduate students must be strictly on the basis of their academic merit and the University/ Institution may adopt any one of the procedure for Degree and Diploma courses. Regulation 9 read as under :

SELECTION OF POST-GRADUATE STUDENTS :

(1) Students for post-graduate medical courses shall be selected strictly on the basis of their academic merit.

(2) For determining the academic merit, the university/institution may adopt any one of the following procedures both for degree and diploma courses :

(i) On the basis of merit as determined by a competitive test conducted by the State Government or by the competent authority appointed by the State

Government or by the University/group of universities in the same State: or

(ii) On the basis of merit as determined by a centralised competitive test held at the national level; or

(iii) On the basis of the individual cumulative performance at the first, second and third MBBS examinations, if such examinations have been passed from the same university; or

(iv) Combination of (i) and (iii) : Provided that wherever entrance test for Post-graduate admissions is held by a State Government or a university or any other authorised examining body, the minimum percentage of marks for eligibility for admission to post-graduate medical courses shall be fifty per cent for all the candidates;

Provided further that in non-Governmental institutions fifty percent of the total seats shall be filled by the competent authority and the remaining fifty per cent by the management of the institution on the basis of merit.

9. The Regulation further provides the criteria for the selection of the candidates which reads as under :

"Criteria for the selection of candidates.--(a) Students for post-graduate training should be selected strictly on merit judged on the basis of academic record in the under-graduate course. All selection for post-graduate studies should be conducted by the Universities.

(b) The candidates should have obtained full registration i.e. they must have completed satisfactorily one year of compulsory rotating internship after passing the final MBBS examination and must have full registration with State Medical Council.

(c) They must subsequently have done one year's housemanship prior to admission to the post-graduate degree or diploma course. Housemanship should preferably be for one year in the same subject or atleast six months in the same department and the remaining six months in an allied department. Provided that in departments like Radiology/Anaesthesiology/Physical Medicine & Rehabilitation where suitable candidates who have done housemanship in the respective subject for the respective specialty are not available then the housemanship in Medicine and/or in Surgery may be considered as sufficient.

Work done by the District Epidemiologists in the P. Falciparum containment programme (PFCP) for a period of one year may be considered at par with the requirements of house Jobs required for admission to post-graduate course in Social & Preventive Medicine."

10. Taking into consideration the Regulation of the Medical Council of India coupled with Clause 3(3.1) of the prospectus quoted herein above. I am of the opinion that this Court cannot give relaxation in contravention of the Regulation in the matter of qualification and eligibility for admission in the Post-graduate

Courses. Moreover, petitioners, were not granted relief by this Court in the earlier writ application filed by them. Merely because some observation was made by this Court, that will not give right to the petitioners to compel the respondents to take admission in the Post-graduate Courses. Apart from that merely allowing the candidates to appear in the counselling does not give right to qualify the same, if otherwise they are not qualified in terms of the Medical Council of India Regulation and the advertisement.

11. For the reasons aforesaid. I do not find any merit in this writ application, which is accordingly dismissed.