

(1992) 01 AHC CK 0093

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 8417 of 1986

Dr. Anjan Biswas

APPELLANT

Vs

Principal, S.N. Medical College and Another

RESPONDENT

Date of Decision : 27-01-1992

Acts Referred:

Citation : (1992) 2 AWC 1146 : (1992) 1 UPLBEC 462

Hon'ble Judges : R.B. Mehrotra, J

Bench : Single Bench

Advocate : M.B. Saxena, for the Appellant;

Final Decision : Allowed

Judgement

R.B. Mehrotra, J.—The Petitioner has completed his M.B.B.S. Course from Ajmer Medical College, Rajasthan securing 57.78% marks in the year 1983. He completed his one year internship in January 1984 from Ajmer Medical College. Thereafter, he completed one year house job in orthopaedics in the year 1986 in Dr. Ram Manohar Lohia Hospital, New Delhi.

2. In response to an advertisement, published in the year 1986. the Petitioner applied for his admission in M. S. orthopedics in S. N. Medical College, Agra There were four seats in MS orthopedics ,out of which, three seats were reserved for internal candidates and one was open to all, including candidates, who had passed their M .B.B S. examination from Medical Colleges, other than S. N. Medical College, Agra The Petitioner was one of such candidates. The Petitioner was denied admission for the fourth seat, which was open for all, on the basis that the Petitioner has failed to obtain highest marks amongst the students, who were found successful in S N. Medical College, Agra. Though the Petitioner had secured higher marks than the last two candidates, who passed from the S N. Medical College, Agra, the two students, who secured lesser marks than the Petitioner, were admitted to M. S. Orthopedics Course on the basis that the Petitioner has failed to secure higher marks than the first internal candidate

declared successful from S N. Medical College, Agra. This admission was denied on the basis of interpretation of a Government Order dated 15-12-82. The relevant extract of clause-4 of the aforesaid Government order reads as under:

(4) In every speciality, seventy-five percent seats in a particular medical college shall be reserved for the candidates who have passed the M.B.B.S. examination from the College and against the remaining twenty-five per cent seats candidates we have passed M.B.B.S. examination from other Medical College and are bona fide resident of Uttar Pradesh, shall be eligible for admission with the candidates who have passed the M.B.B.S. examination from that very college.

3. The Respondent-authorities interpreted the aforesaid order to mean that the external candidate could be admitted against 25% of seats reserved for them only if he was better in merit as compared to the student, who has secured highest mark as internal examinee. On the basis of the aforesaid interpretation of the Government Order, the Petitioner was denied admission, though the Petitioner secured higher marks than the last two candidates, who were admitted in M. S. Orthopedics course and who were internal candidates. The Petitioner challenged the aforesaid action of the Respondent-authorities by means of the present writ petition.

4. The aforesaid clause-4 of the Government order dated 15-12-82 came up for consideration before a division bench of this Hon''ble Court. The division Bench of this Hon''ble Court in Dr. Anurag Mathur v. State of U.P. 1986 UP LB EC 1024, took the view that the aforesaid provision is being wrongly interpreted by the authorities. The external candidate is to compete from the last internal candidates in order of merit and not from the first internal candidate in order of merit. Taking the aforesaid view, the division bench allowed the writ petition and held that the external candidate should be admitted in the 25% quota, if he has secured higher marks than the last internal candidate admitted in the post-graduate course.

5. In the present matter admittedly the Petitioner secured 57.78% marks in M.B.B.S. whereas the last two candidates, who have been admitted in MS. orthopedics ,as internal candidate, secured only 57.14% and 55.36% marks respectively. The Petitioner was wrongly denied admission. However, the Petitioner was provisionally admitted under the orders of this Hon''ble Court, vide order dated 23-5-86. The Petitioner has completed his M.S. orthopedics course and has been declared successful but formally the result of the Petitioner is not being declared in view of the fact that the Petitioner was provisionally admitted under the orders of this Court.

6. In view of the decision of this Court in Dr. Anurag Mathur's case (Supra), the Petitioner was wrongly denied admission and the Petitioner was entitled'' to be admitted in M.S. Orthopedics course in S.N. Medical College, Agra on merits. Since the Petitioner has completed his M.S. Orthopedics course and has been declared successful on the basis of the interim order passed by this Court, the

only relief, for which the Petitioner is entitled, is that the Petitioner's result should be formally declared and the degree awarded to the Petitioner, should be conferred on him within a month of the receipt of the certified copy of this order.

7. The writ petition is accordingly allowed.

8 The parties will bear their own costs.