

(2018) 03 RAJ CK 0097
In the Rajasthan High Court
Case No : Civil Writ Petition No. 5722 of 2018

Dr. Jaiprakash And Ors. @APPELLANT@Hash State Of Rajasthan

Date of Decision : 16-03-2018

Acts Referred:

Negotiable Instrument Act, 1881 — Section 138

Citation : (2018) 03 RAJ CK 0097

Hon'ble Judges : ALOK SHARMA, J

Bench : Single Bench

Advocate : Dinesh Bishnoi, SK Gupta

Final Decision : Disposed Off

Judgement

The petitioner was admitted to MD (Anesthesia) following NEET PG 2017 at the Sardar Patel Medical College and Associated Group of PBM

Hospitals Bikaner (hereafter "the College"). As the pre-condition of the admission was, he deposited all his original certificates and documents

pertaining to his service record and was required to execute a bond of Rs. five lacs " which was bifurcated into a bank guarantee of Rs. one lac

fifty thousand and a surety bond of the remainder Rs. three lacs fifty thousand on a non judicial stamp paper. He also, as required, further submitted

two sureties on the prescribed proforma. In terms of the surety bond which the petitioner was required to execute he undertook that in the event of his

leaving the course before its completion and otherwise on non fulfillment of the conditions of his admission, the respondent " College would have a

right to retain the original certificates and require payments under the bond. The petitioner admittedly complied with the conditions of his admission and

submitted a surety bond of Rs. three lacs fifty thousand aside of a bank guarantee of Rs. one lac fifty thousand. Two sureties in the prescribed

proforma were submitted and the original certificates as also service record of the petitioner deposited with the respondent-College.

The petitioners then could not continue with the MD (Anesthesia) course to which he was admitted and had since abandoned the said course. His

admission was also terminated by the respondent-College and he was required to deposit a sum of Rs. five lacs under his surety bond.

The petitioner's case is that for reasons of his poor financial condition, his father being an agriculturist, he is not in a position to pay the amount

of Rs. five lacs under the surety bond executed in favour of the University. And no occasion of returning the stipend arises as it was never availed by

him or paid to him. It has been submitted that the petitioner has appeared in NEET, 2018 and again being successful as he was in NEET 2017, he

hopes to get admission into a PG course of his interest/ choice. For that at the counselling for the purpose he requires the original documents of his

educational qualifications submitted with the respondent College at the time of his admission into PG (Anesthesia) in the year 2017 and the service

records. That however is being retained by the respondent College for reasons of non payment of the amounts due under the surety bond.

Hence this petition.

Mr. S.K. Gupta, AAG who represents the Medical Department was required to accept notice this morning for reasons of urgency the date of

counselling for admissions to PG courses in Medicines following NEET 2018 being 19.3.2018 as stated and as the respondent no.2 College is a

government college. As required by the Court he has taken instructions during the lunch break and submitted that in the event the payment of the

amounts due to the respondent College by the petitioner petitioner is safeguarded by the order of the Court, the respondent College would have no

difficulty in returning the original documents of the petitioner as also his service record.

Heard. Considered.

This is another petition where the issue is not of the protection of the petitioner's fundamental or legal rights or ensuring that statutory authority

discharge its statutory duties to him. It is also not a case where equity is in the petitioner's favour as the petitioner himself is a defaulter on the

conditions of his admission and despite having abandoned the MD (Anesthesia)

course mid-way has not paid the amounts due under the surety bond to the respondent " College. Yet this Court is seized with a situation where the petitioner a student is at the cross-road of his life/ career and seeks to pursue a post graduate medical course of his choice having passed the NEET 2018 Examination. The petitioner appears to be the reasonably bright student as he aside of having earlier passed the NEET, 2017 examination has also passed the NEET, 2018 examination and is expectant of getting PG course of his choice in the current academic year.

This court faced with almost a similar situation in the case of Pragma Singh Versus State of Rajasthan (SB Civil Writ Petition No. 2223/2015) decided on 26.2.2015 issued certain directions to ensure that the obligation of the petitioner-student to pay the amounts due under a surety bond for abandoning the course in Medicine mid-way was not circumvented while at the same time, the student was not put to irreparable loss for reason of not being in a financial condition to pay the amounts due to the college under the surety bonds executed for reasons of financial difficulty.

Resultantly in the context of the facts, I would direct as in Pragma Singh vs. State of Rajasthan (supra) that the amounts due to the College by the petitioner both under the surety bond amount executed and refund of stipend, if any, received by the petitioner as a PG student, be calculated and conveyed to him within a period of two days from the date of receipt of a copy of this order. Thereupon the petitioner would be required to immediately pay 25% of the aforesaid amount as computed and conveyed and the remainder amount in six equal monthly installments. The remainder amount aforesaid be calculated with interest @ 5% on reducing basis. Six post dated cheques of equal amounts towards the payment of 75% of the remainder amount due and interest thereon, after payment of 25% amount, as directed above be furnished by the petitioner to the respondent College.

The petitioner shall also furnish alongwith the six post dated cheques a surety of an employee of the Central Government / Government of Rajasthan towards the payment of the amounts due after payment of 25% amounts of the total amount payable as computed by the respondent " College comprised of (i) remainder amount under the bond of Rs. five lacs and (ii) amount of stipend paid to the petitioner, if any; and (iii) interest. On compliance by the petitioner, as aforesaid, the respondent College is directed to

release the petitioner's papers to him. It is made clear that in the event of post dated cheques towards the repayment of due amount, as directed here-in-above, bouncing / being dishonoured, aside of civil liability, the petitioner shall also be visited with prosecution under Section 138 of the Negotiable Instrument Act, 1881.

The writ petition stands disposed of accordingly.