
(1979) 11 RAJ CK 0009
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1326 of 1979

Dr. L.S. Dashora

APPELLANT

Vs

The University of Rajasthan

RESPONDENT

Date of Decision : 21-11-1979

Acts Referred:

Citation : (1979) WLN 493

Hon'ble Judges : S.K. Mal Lodha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.K. Mal Lodha, J.—The petitioner was admitted as a student of M.D. in the year 1972. He is appearing in the, M.D. Examination of the University of Rajasthan Jaipur (hereinafter referred to us the "University") The cases of the petitioner is that this examination is known as M. D. Examination Sep.) 1979, as per the Admission Card issued to him by the University. His case further is that the scheme of examination, which is to take place before Dec, 1979 was published in the "Syallabus 1977" issued by the University for the Faculty of Medicine and Pharmaceutics and according to Ordinance 278-C (10) of the Ordinances of the University it was proved that the M.D. Examination and other Post-Graduate, Examinations. would be conducted by a Board of Examiners, consisting of one Internal and two External Examiners Another Syallabus was issued by the University, which was to be made applicable for the M.D. and M.S. Examination to be held in December, 1979 and 1980. The case of the petitioner is that his case is governed by the Syllabus issued 1977 and he should tee examined by a Board consisting of three examiners (on internal and two external examiners). The petitioner has stated that according to Ordinance 278-E, the examination. in M.D. consists of (a) Thesis or Dissertation, (B) Written Papers and (c), oral practial end/or clinical examination, as the case may be, it is submitted that the (sic)thesis submitted by a candidate is evaluated by two External Examiners. As regards the Written Papers-Theory Examination, it is provided that there shall be

four papers which shall be set down by the two external examiners and while the external examiners are required to evaluate Papers II and III, the remaining two Papers namely. Papers I and IV are to be evaluated by the only one Internal Examiner. As regards the Oral, Practical Examination etc, for the branch in which the petitioner is taking his examination viz., Physiology, it is provided that he is required to appear in the Practical as well as Viva-Voce examinations to be conducted jointly by the Internal Examiner and the two External Examiners, The petitioner submitted his thesis in" September," 1978. The petitioner was required to appear on September 17,20,25 and 28, 1979 in respect of the Papers II, III IV and I respectively. Before appearing on September 28, 1979 in Paper I, the petitioner came to know that the scheme of examination as provided in the Syllabus published by the University in 1978 which was to be made applicable for the M D. Examination to be held in December, 1979 and onwards, has been made applicable for the examination being taken by the petitioner, viz., the MD Examination (September), 1979 It further came to his notice that instead of one internal examiner, there will be two internal examiners, who shall act as under:

- (i) One Internal Examiner will evaluate the answer books of Paper I and the other Internal Examiner will evaluate the answer books of Paper IV
- (ii) Both the internal Examiners will conduct the Practical and the Viva-Voce jointly with the two External Examiners.

The petitioner has stated that he had an opportunity to see a letter from the Registrar, University of Rajasthan addressed to Dr, R N Singh, Professor of pediatrics, S.N Medical College, Jodhpur dated 14-9-79. In that letter it was stated that a Board consisting of two Internal and two Examiners has been appointed for M. D. (Paediatrics) Examination (September), 1979, (a branch of M D Degree), the constitution of which is as under:

1. Dr. R.N. Singh, Internal Examiner Professor of Pae- for written theory diatrics, S.N. Medical Paper IV College, Jodhpur. (Head of Department)
2. Dr. (Mrs.) S.P. Choud- Internal Examiner hary Reader in Paedia- for written Paper tries, S.N Medical Coll- (Theory) I ege, Jodhpur (She is No. 2 in the Department).
3. Dr. Leela Ram Kumar External Examiner Professor of Paediotrics for written Theory Medicial College, Paper II Patiala
4. Dr. V.K. Gandhi, of External Examiner Seth K.M. School of for written theory P.G. Medicine and Paper III Research, Ahmedabad

The petitioner has stated that after having seen that letter, he made out a verbatim copy of the same and he has filed it as Ex. 4. The petitioner has stated that he expects that by virtue of his post of Reader and No. 2 man in Physiology in the Department of Physiology and Bio Chemistry, S.N. Medical College, Jodhpur, Dr. I .R. Beotra would be the Internal Examiner of written theory paper I and that he will also be one of the four examiners, who will evaluate the

practical to be done by the petitioner and his performance in the Viva-Voce He submitted his representation to the Registrar of the University on 26-9-79. the copy of which has been marked as Ex. 5 He also sent a telegram, the copy of which has been submitted as Ex. 6. He has stated that he has made a complaint against Dr. I.R. Beotra (respondent No. 5). He has submitted the copy of the complaint (Ex. 7- 1-8-77 and the order (Ex 8) dated ?-3-78 of the State Government in this regard His case is that if he is examined by four examiners which is violation of the scheme laid down by Ordinance 278-C for September, 1979 Examination, he will be prejudiced and that he apprehends that if respondent No. 5 will be one of his two internal examiners then due the personal grudge, he will settle the old scores with the petitioner He has, therefore, prayed that respondents No. 1 may be restrained from allowing respondent No. 5 from acting as one of the two Internal Examiners of the petitioner for the M.D Examination (Sept-ember), 1979 for Physiology and further that respondent No. 5 may be restrained from evaluating the answer book of the petitioner of the written-theory paper I (i.e., Applied and Clinical Physiology given by him on 28-9-79, It is also prayed that the respondents may be directed to conduct the examination of the petitioner in accordance with the Syllabus issued by the University for the M.D. Degree course of the Faculty of Medicine and Pharmaceutics, published by the University in 1977, meant for all examination* (M.D.) of 1979, inclusive of the M.D. Examination (September), (1979; and not to apply, the provisions of the Syllabus issued in 1978, meant for the December, 1979 and 1980 Examinations and the amended provisions of Ordinance 278 C providing for a Board consisting of four examiners, to the petitioner.

2. A show cause notice was issued to the respondents. In pursuance of that respondents Nos. 1 and 2, viz., the University of Rajasthan and the Registrar of the University have filed reply. It has been stated by respondent Nos. 1 and 2 that the petitioner did not appear at the MD (Ph)siology) Examination conducted by the University during the year 1977 and 1978. The petitioner had appeared in the theory papers held in the month of September, 1979, Therefore, he would be governed by the provisions of Ordinance 278 C as it existed in the date of the examination, which clearly provides for practical examination in which two persons will be called from out side. known as external and two persons from the College, Known as internal examiners. The case of the respondents No. 1 and 2 is that the examinations are governed by the rules and regulations prevalent at the time of examination, The scheme as two internal examiners and two external examiners came into force the day it was approved by the Syndicate and accordingly the amendment was introduced in Ordinance 278-C. After the approval by the Syndicate, the amendment introduced in Ordinance 278 C came into force and it was in force when the petitioner appeared at the examination.

3. The petitioner filed a rejoinder to the reply to the show cause nonce, file i by respondents Nos. 1 and 2 today. It was reiterated by the petitioner that he has a right to be governed by the provisions of the Syllabus 1977, namely, that he shall be examined by a Board consisting of three examiners (one internal and

two external examiners).

4. I have heard Mr. Bhagwatis Prasad, for the petitioner, Mr. N. N. Mathur for respondent Nos. 1 and 2 and Mr. Rajesh Balia, Deputy Government Advocate for respondent No. 4.

5. Having heard the learned Counsel, I am satisfied that the writ petition has no merit and it deserves to be dismissed. It may be stated that the learned Counsel for the respondents No. 1 and 2 submitted a copy of the telegram dated 12-11-79 issued by the Assistant Registrar (Exam. II) to the Principal, Medical College, Jodhpur. It is mentioned in the telegram that Dr. M.L. Gupta, Professor of Physiology, Principal, R.N.T. Medical College Udaipur) has been appointed as internal examiner M. D. Physiology vice Dr. Beotra. Learned Counsel also stated that the aforesaid Dr. Beotra will not act as an internal examiner In these circumstances, it is not necessary to examine the point raised by the petitioner in his writ petition that if respondent No- 5 (Dr. Beotra) would act as one of the two internal examiners for the MD, Examination (September), 1979 then due to the personal grudge he will settle the old scores with the petitioner, and therefore, an order restraining him from acting as internal examiner should be passed. The only contention that now remains to be considered is, whether the scheme of one internal and two external examiners would be applicable to the petitioner or he would be governed by the amended Ordinance 278-C.

6. Clause 8 of Ordinance 278 C of the University Hand Book part II was amended and the Syndicate approved it on 3-10-78. The relevant portion of the amended Ordinance 278 C is as under:

8.(i)...

(ii) There shall be atleast four examiners in each subject at an examination out of whom atleast 50% shall be external examination. The external examiners who fulfil the condition laid down in Clause I above should ordinarily be invited from and her recognised University, from outside the State.

Prior to that, relevant portion of Ordinance 278. C, which was a general Ordinance relating to D. M., M. Ch., M D., M. S. and M. Sc. (Med.) Examinations was as under:

O. 278-C

(1) The Head of the Postgraduate Department for post graduate course shall be of the Status of a Professor having at least five years" teaching and research experience as Professor/ Associate Professor/ Reader/ Asstt. Professor/ Lecturer in a Medical College after requisite recognised post graduate degree or equivalent postgraduate qualification.

(9) All the post graduate examinations (Degree and Diploma) of the Faculty of Medicine, the examiners (Internal or External) should possess 5 years" teaching experience as lecturer/ Asstt. Professor/ Reader/ Associated Professor/ Professor

after requisite recognised postgraduate degree or equivalent qualification and should be of the status of Professor or of a Reader having at least five years, experience as Reader. The number of non-medical examiners should not exceed 25% of the total number of examiners in a particular subject at the particular centre.

Note: The internal examiner shall be a teacher of the Institution concerned provided he is so qualified.

(10) All the post graduate examinations will be Conducted by a Board of Examiners consisting as one internal and two examiners.

7. The amended Ordinance 276 C was approved by the Syndicate on October 3, 1978 and it was duly published and circulated to all concerned through the respondent No. 2's endorsement No. F 2 (6) Ara. 1 Reg/ 7 / 7893 8147 of 25th April, 1979 and favour of necessary action amongst others to the Controller of Examinations, University of Rajasthan, Jaipur and all the Principals of Colleges affiliated to the University. The provision of Ordinance 278-C regarding Board of Examiners were made applicable to all the candidates who appeared in the examination of the University conducted in the year-September, 1979, in all specialties irrespective of any discrimination and the examination was conducted by the University in all the Medical Colleges affiliated to the University including S.N. Medical College Jodhpur to which the petitioner belongs. It is correct that in some of the publication of the University Syllabus, Ordinances, Scheme of Examination and Courses of Study, Faculty of Medicine and Pharmaceutics, Diploma Course Examinations, 1978 and 1980 is mentioned. But there is nothing to show that in the scheme contemplated u/s 28-C would come into force from December, 1979. There is no provision that the amended Ordinance 278 C would come into force from December, 1979. It appears from the reply to show cause notice filed on behalf of respondents Nos. 1 and 2 that the Medical Council of India vide in No. MCI-21 (1) 78 Med./2097 dated 11-4-1979 directed the University of Rajasthan to make necessary changes in Ordinance 278. C. In pursuance of that the authorities took steps to make necessary amendments in Ordinance 278 C and the matter was placed before the Faculty of the Medicine and Pharmaceutics Academic Council and ultimately the recommendation were approved by the Syndicate at its meeting held on October 3, 1978. Accordingly the amendment was made in the Ordinance 278-C by which composition of the Board was changed from 3 examiners to 4 examiners. It is significant to note that the curricula containing the courses of studies is exactly the same & the mode of practical examination has not been changed in any manner except that at least 50% should be external examiners. The petitioner cannot claim any right in regard to the mode of examination, that he should be examined by one internal and two external examiners. As the petitioner had appeared after the amendment made in Ordinance 278-C in regard to the composition of the Board of examiners, he would be governed by the amended provisions of Ordinance 278-0, which was in force when he appeared in the theory papers. The

contention, that he is governed by Syllabus of 1977 cannot, therefore, be accepted. Learned Counsel placed strong reliance on the decision of Virendra Kapur v. University of Jodhpur and on (1) in which Section 39 of the Jodhpur University Act (XVII of 1962) came up for consideration, I have carefully gone through the judgment and in my opinion, it is distinguishable and it is not of any assistance.

8. The result is that writ petition has no merit and it is accordingly dismissed summarily.