
(2020) 08 RAJ CK 0041
In the Rajasthan High Court
Case No : Civil Writ Petition No.9181 Of 2020

Dr. Sanjoli Chugh

APPELLANT

Vs

State of Rajasthan And Ors

RESPONDENT

Date of Decision : 24-08-2020

Acts Referred:

Citation : (2020) 08 RAJ CK 0041

Hon'ble Judges : Ashok Kumar Gaur, J

Bench : Single Bench

Advocate : Subhash Sharma, Harshal Tholia, Dr.V.B. Sharma

Final Decision : Allowed

Judgement

Heard learned counsel for the parties through video conferencing.

The instant writ petition has been filed by the petitioner for seeking a direction to accept her resignation from the seat of M.D. (Pathology) in S.M.S. Medical College and further direction to return all the original documents of the petitioner after forfeiting the amount of bond of Rs.5 lakh.

Learned counsel submitted that the petitioner had participated in the counselling for allotment of seat in State of Rajasthan and petitioner was allotted a seat of M.D. (Pathology) at SMS Medical College, Jaipur in the second round of counselling under the All India Quota on the basis of her performance in NEET PG-2020.

Learned counsel submitted that the petitioner had taken admission in the said course by depositing the necessary original documents and she also submitted an application dated 29.07.2020 in the office of Principal, SMS Medical College and Controller of the attached Hospital, Jaipur wherein the original documents-10th Class Certificate, 12th mark-sheet, MBBS mark- sheets, Internship Completion Certificate, Permanent Registration Certificate of PMC and MBBS degree, were deposited.

Learned counsel submitted that the petitioner has also executed a bond of Rs.5 lakh which was bifurcated into a bank guarantee of Rs.1.50 lakh and surety bond of Rs.3.50 lakh on a non-judicial stamp paper and the original copy of surety bond of Rs.3.50 lakh was deposited and photocopy of F.D. was prepared through SBI, Sanganeri Gate, Jaipur and was also deposited with the respondents.

Learned counsel submitted that the petitioner had also applied to Post Graduate Institute of Medical Education and Research, Chandigarh (for short 'PGIMER') through PGIMER MD/MS Entrance Exam, July 2020.

Learned counsel submitted that the petitioner was allotted a seat in PGIMER, Chandigarh in Pathology subject and a letter was also issued to same effect on 31.07.2020.

Learned counsel submitted that the petitioner has submitted a representation before the respondents to release her original documents as she was required to produce the same before the PGIMER, Chandigarh on 21.08.2020.

Learned counsel for the petitioner submitted that the respondents did not pay any heed to such request and as such, she has been forced to approach this Court.

Learned counsel for the petitioner submitted that, now at the request of the petitioner, final date is 27.08.2020 by which the petitioner has to submit her original documents before the Authorities at Chandigarh and if the petitioner fails to do so, she will lose her right of admission in the said course and it would result irreparable injury to the petitioner.

Learned counsel for the petitioner submitted that this Court has already considered the similar issue in the case of Shailja Singh vs. State of Rajasthan (S.B. Civil Writ Petition No.8516/2020) decided vide order dated 10.08.2020.

Learned counsel submitted that this Court, after considering the similar issue, directed the candidate to pay a Demand Draft of Rs.5 lakhs in favour of the Government of Rajasthan and immediately documents of such candidate were to be released. Learned counsel submitted that the similar treatment may be given to the present petitioner.

Per contra, Mr.Harshal Tholia submitted that the petitioner is not entitled for any relief as the petitioner has already been granted admission in SMS Medical College and if she is permitted to leave the course, the less meritorious candidate will come in the fray and they will claim the seat. This kind of permission results into the inequalities amongst the meritorious candidate and the right of student to pursue studies in better institution does not mean that seats which are occupied by such students are either go waste or result into the admission of less meritorious candidates.

Learned counsel also submitted that the judgment passed by this Court in the case of Shailja Singh (supra) has not laid down any law and as such only

considering the facts of the case, without any precedent being decided, no indulgence can be granted to the present petitioner.

I have heard learned counsel for the parties and perused the material available on record.

This Court finds that the Mop-up round of allotment of seat is already over before the cut-off date fixed by the Hon'ble Supreme Court i.e. on 31.08.2020.

This Court is also informed that the exercise of allotment of residuary seats will be carried out by the respondent- College as per schedule laid down by the Medical Council of India as approved by the Hon'ble Supreme Court. The last date for allotment of seats has been fixed on 31.08.2020.

This Court in the case of Shailja Singh (supra) has considered the similar issue and has held that there is no legal impediment and if the candidate is ready to compensate the State Government and the seat is also becoming vacant, then no hurdle should be created to pursue a better course, as per choice of the candidate. The relevant portions of the judgment are quoted hereinunder:-

"The objection of learned counsel for the respondent State that the petitioner should not be permitted to leave the seat, as per the Notification, issued by the Medical Council of India, and as per flow chart, she should not be permitted to exit the seat, this Court finds that object of the official respondents is to ensure that the candidate who joins on the allotted seat, should not be permitted to vacate the seat and the consequences of vacating the seat should also be avoided, as the All India seats are required to be filled by the students from All India merit only.

This Court finds that right of the candidate to pursue the course of his/her choice should not be denied provided there is no legal impediment and if the candidate is ready to compensate the State Government and the seat is also becoming vacant, then no hurdle should be created to pursue a better course, as per choice of the candidate.

This Court, considering the peculiar facts and circumstances of the case, deems it proper to allow this petition and permit the petitioner to get her documents released from the respondents. The petitioner is required to pay a Demand Draft of Rs.5,00,000/- in favour of the Government of Rajasthan and on furnishing such Demand Draft, the respondents are directed to release the documents to the petitioner immediately, enabling her to join at the allotted college.

The order passed in this case shall not be treated as a precedent, as the same has been passed considering the peculiar facts of this case, since the deadline, already fixed by AIIMS permitting the petitioner to submit the documents to join the course, is closing on 11.08.2020.

Accordingly, the present writ petition stands allowed.

This Court finds that in the present case the petitioner wants to pursue her

studies at PGIMER, Chandigarh and she is prepared to compensate the State Government by paying Rs.5 lakh--the amount of bond which she had agreed to pay at the time of admission.

This Court also finds that the seat which will be left vacant by the petitioner, will not go waste and same should be offered to the candidates as per their choice and merit in allotment process of residuary seats.

This Court accordingly considering the peculiar facts and circumstances of the case, deems it proper to allow the petitioner and permit the petitioner to get her documents released from the respondents. The petitioner is required to pay Demand Draft of Rs.5 lakh in favour of the Government of Rajasthan and on furnishing of such Demand Draft, the respondents are directed to release the documents immediately, enabling her to join at the allotted College.

This Court also makes it clear that the deadline has already been fixed by PGIMER, Chandigarh i.e. on 27.08.2020 permitting the petitioner to submit her documents to join the course by 27.08.2020 and as such, the respondents will undertake the aforesaid exercise as early as possible.

Accordingly, the present writ petition stands allowed. The order passed in this case shall not be treated as a precedent, as the same has been passed considering the peculiar facts of this case.