
(1981) 12 OHC CK 0008

In the Orissa High Court

Case No : O.J.C. No's. 1876, 1877 and 1898 of 1981

Dr. Sanjukta Panda and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 16-12-1981

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1982 Ori 120 : (1982) 54 CLT 77

Hon'ble Judges : R.N. Misra, C.J.;B.K. Behera, J

Bench : Division Bench

Advocate : L. Rath, B.B. Rath and A.K. Misra, for the Appellant; Govt. Advocate, for the Respondent

Judgement

R.N. Misra, C.J.—Each of these applications under Article 226 of the Constitution is by a Medical Graduate who completed the Rotating Housemanship after 30-6-81 and whose application made for admission into the Resident House Staff Course (hereinafter referred to as "R.H.S.") for the 1981-82 session has not been entertained. In each of the writ applications the prayer is for a direction to the authorities to entertain the application for admission and to permit the petitioner to sit at the entrance examination and for other consequential directions.

Each of the petitioners passed the M.B.B.S. examination in 1980 but completed the Rotating Housemanship after 30-6-81. The prospectus for the R.H.S. course for the 1981-82 session indicated that--

"The candidates are required to fulfil the requirements by 30-6-81."

One of the requirements in para 3 of the prospectus was to the following effect:--

"3 (ii). The candidate must have satisfactorily completed the compulsory Rotating Intership/Housemanship training in a hospital recognised for this purpose for a period of one year by 30-6-81 of before.

Those who have not completed the compulsory Internship/Housemanship at the time of submission of application are required to submit certificate indicating the likely date of completion of the same. Others should attach a copy of completion certificate.

(iii)"

It is not disputed that each of the petitioners satisfied the other requirements except that the Rotating Housemanship was not completed before 30th June, 1981. In terms of para 3 (ii) of the prospectus, each one should have completed the course before the appointed date, but on account of a prolonged strike of Rotating Internees there was delay and two of them had completed the year's course by end of July, 1981, while the petitioner in O.J.C. No. 1877/81 completed it by 24-9-81.

It is contended on behalf of the petitioners that fixing the date as 30-6-81 was wholly irrelevant inasmuch as the prospectus was published beyond that date. Applications for admission were required to be filed by 7-8-1981 and the date of the entrance examination was scheduled for 20th Aug., 1981. Reliance was placed on the second part of Clause (ii) of para 3 of the prospectus extracted above where cognizance was taken of the position that if one had not completed the Rotating Internship by the date of submission of the application, one was entitled to specify the likely date by which the same was to be completed. As a further ground it was contended that some candidates who had not completed the Rotating Internship by 30-6-1981 had also been called to the examination. This was cited as an instance of infringement of Article 14 of the Constitution.

2. A counter-affidavit has been filed and there has been denial of the fact that Article 14 of the Constitution has been infringed. Though it has been admitted that in a hurry some candidates who had not completed the Internship by 30-6-81 had been initially entertained, it has been pleaded that their applications have been ultimately rejected. It has next been contended that the requisite qualifications under para 3 of the prospectus had to be satisfied and since admittedly each of the petitioners did not satisfy the requirement, there was no scope to make grievance

3. In the absence of any further material, we must hold that the plea of infringement of fundamental right enshrined in Article 14 of the Constitution does not survive for support to the petitioners.

4. There is also no force behind the contention that 30-6-81 should not have been fixed as the date by which Rotating Internship should have been completed. As it appears, in the normal course those who passed the regular M.B.B.S examination of 1980 should have completed the compulsory Rotating Internship by 30-6-1381. This feature is admitted by two of the petitioners. The petitioners have come forward with an explanation as to why they could not complete the Internship before 30-6-81. We see no objection to the authorities fixing 30-6-81 as the appointed date.

5. The only question that remains for consideration is the effect of the second part of Clause (ii) of para 3 of the prospectus where it has been provided that in case of candidates who have not completed the compulsory Rotating Internship/Housemanship by the time of submission of application, they are required to submit a certificate indicating the likely date of completion of the same. The last date for making of application was 7-8-81 as already taken note of. Incorporation of the second part of Clause (ii) of para 3 does indicate that one who had not qualified even by 7-8-81 could make the application but was required to give a certificate indicating the likely date of completion of the course. If an application made by 7-8-81 from one who was still continuing as an internee was maintainable, those, who had by that date qualified, certainly would have been entitled to apply and their applications were bound to be entertained. There can be no logic in rejecting the application of the petitioner in O.J.C. No. 1876 of 1981 and also of the petitioner in O.J.C. No. 1898 of 1981 as in the first case the period was complete by 21-7-81 while in the second case it was complete on 3-7-81. We see no scope for discarding the argument advanced on behalf of these petitioners. The applications of these petitioners must be held to have been wrongly rejected.

6. So far as the petitioner in O.J.C. No. 1877 of 1981 is concerned, it is admitted in para 7 of the writ application that the Rotating Housemanship was to terminate on 24-9-81. Even if the petitioner could make the application for admission by relying upon the second part of Clause (ii) of para 3 of the prospectus, since the examination was being held on 20th Aug., 1981 and by then he was not qualified, his application could not be treated to be in order. On that ground, non-entertainment of his candidature is not open to dispute. O.J.C. No. 1877 of 1981 is, therefore, liable to be rejected,

7. Before we proceed further, it is appropriate that we take note of a very unusual feature which occurs as an annual event in the admission into both the M.B.B.S. course as also the Post-Graduate study in the various medical specialities. Every year the method of selection is being changed and a novel process is being introduced. Selection into these courses is an annual event and since this is a certain event which could be predicted from before and there was no necessity to introduce any urgency into the process, the procedure could be fixed in advance. In fact, a durable scheme could be adopted which would remain in force for several years so that an element of certainty would prevail and candidates seeking admission would know their positions from before. There could be no justification to keep the scheme changing from year to year and detain the announcement of the scheme operative for the year till a couple of weeks before the last date fixed for making of the applications and then in utter hurry proceed to deal with the matter, commit mistakes, introduce chaos and allow every one to take uncertain, unpredictable and doubtful steps. Traditionally, dealings of Government have the characteristic element of certainty and where citizens are involved, nothing is done in a way which would prejudice or affect them- In the instant case, Government have conceded that out of confusion

some applications, though the candidates were not qualified, had been initially entertained. If the prospectus was published in time, reasonable gap was allowed to make applications, sufficient time was left for processing of these applications and no element of hurry was introduced into the operation, these mistakes would not have occurred. Confusion is associated with hurry and when State action is hurriedly undertaken, confusion cannot be kept away. We hope, the State Government would formulate its policy in the related matter in a concrete way and in future years more of certainties would be introduced into its dealings in respect of these matters.

8. Now comes the question as to what relief should be given to the two petitioners whose applications we have found to have been wrongly rejected. Since the petitioners satisfied all the requirements and their applications have been rejected by mistake of the public authorities, we are inclined to agree that they should not be prejudiced. The examination is over. We do not know in certain terras whether there is any vacancy left in the specialities in which these two petitioners are interested to take admission. In case the petitioners choose to take the entrance examination and duly notify the appropriate authority, viz., the opposite party No. 2-Director, of their intention to take the examination within one week from now, the said Director is called upon to hold the entrance examination meant for selection of candidates for the R.H.S. course within two weeks thereafter. In case these two candidates are found fit for admission and there is no other impediment in their way including availability of seats and the restrictions prescribed by the relevant University to the matter of admission, they be admitted in accordance with the rules in force.

9. We make no order for costs.

Behera, J.

I agree with my Lord the Chief Justice.