
(2008) 03 OHC CK 0047
In the Orissa High Court
Case No : Writ Petition (C) No. 7387 of 2007

Dr. Sibaram Panda

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 28-03-2008

Acts Referred:

Citation : (2008) 1 OLR 848 Supp

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : Snnivas Mohanty, S. Routray and B.D. Panda, for the Appellant;
Additional Government Advocate for Opp. Party No. 3, N.K. Misra and Associates
for Opp. Party No. 4, for the Respondent

Final Decision : Dismissed

Judgement

A.S. Naidu, J.—The question of admission in Paediatrics discipline of Post Graduate (Medical Course), 2007 is in dispute in the present Writ Petition.

2. Admission into P.G. (Medical Courses) is regulated through competitive Entrance Examination held both in All-India Level and State Level. 50% of the seats in each medical college of a State are reserved for candidates who are selected on All-India basis and the rest 50% of seats are filled up from the State quota. Accordingly for the year 2007, All-India P.G. Medical Entrance Examination as well as P.G. Medical Selection were held. The Petitioner, opposite party No. 4 and many others appeared in the said examinations. The Petitioner and opposite party No. 4 qualified at the All-India level. In consonance with their respective ranks in the merit list, Petitioner took admission in General Surgery discipline at the SCB Medical College, Cuttack on 7.3.2007 and opposite party No. 4 took admission in Anesthesiology discipline at the B.J. Medical College, Ahmedabad. It is alleged that opposite party No. 4 after taking admission at Ahmedabad again appeared in the counselling held for the seats reserved under Orissa State quota. He was selected for the discipline of Pediatrics and took admission at the SCB Medical College, Cuttack. Similarly, the Petitioner in the second round of

counselling got a seat in Medicine discipline and was directed to take admission at the MKCG Medical College at Berhampur. It is pertinent to mention that both Petitioner and opposite party No. 4 had taken admission in the respective disciplines in the aforesaid colleges in 2007 and are prosecuting their studies.

3. It is averred by the Petitioner that for avoiding seat blocking a candidate seeking admission into P.G. Medical Course has to submit his College Leaving Certificate in original. Much as in absence of that he would not be eligible to take admission. Though opposite party No. 4 had taken admission in P.G. course at B.J. Medical College, Ahmedabad and was prosecuting his studies, suppressing that fact and producing the CLC issued by MKCG Medical College where he studied MBBS course he took admission in Pediatrics discipline at the SCB Medical College. It is alleged that if opposite party No. 4 ought to have been found ineligible having not produced the CLC of the college where he studied last, i.e. B.J. Medical College, Ahmedabad, then the Petitioner could have got the seat against which opposite party No. 4 illegally took admission. On the basis of such averments the Petitioner has made the following prayer:

The Petitioner, therefore, prays that your Lordships would graciously be pleased to admit this petition, call for the records and after hearing the parties issue Rule Nisi calling upon the O.Ps. as to how the O.P.4 who having continued in the roll of B.J. Medical College, Ahmedabad has taken his admission in the State List without his CLC and showing their no cause or making insufficient cause make the rule absolute.

4. After receiving Rule, a counter-affidavit has been filed by opposite party No. 3, the Principal, SCB Medical College-cum-Convener of P.G. Selection Committee, 2007. It is submitted that both the Petitioner and opposite party No. 4 had been selected to take admission in P.G. Medical Course. Since opposite party No. 4 ranked at Sl. No. 14 in the merit list, during counselling he opted for Pediatrics discipline and a seat being available in that discipline he took admission in that discipline. The Petitioner ranked at Sl. No. 23 in the merit list and in course of counselling he opted for Medicine discipline and accordingly took admission. The allegation that as opposite party No. 4 was illegally permitted to take admission in Pediatrics discipline no seat in that discipline could be available for the Petitioner is stoutly denied mainly on the ground that above the Petitioner eight more candidates were there and in fact the candidates who ranked at Sl. Nos. 15, 18 and 19 had also opted for Pediatrics discipline and were permitted to take admission in the said discipline. It is reiterated that after Sl. No. 19, there were still three more students above the Petitioner, but then all seats in Pediatrics discipline having been filled up, during counselling they opted for other disciplines of their choice.

With regard to the allegation of non-submission of CLC by opposite party No. 4, it is averred that opposite party No. 4 had produced his CLC during counselling and as such the allegation is not correct.

5. A counter-affidavit has also been filed by opposite party No. 4 mostly admitting the facts and taking the stand that after he was selected in All-India Medical Entrance Examination for P.G. Courses, 2007, he was allotted a seat in Anesthesiology at B.J. Medical College, Ahmedabad. On 16.3.2007 he reported at the B.J. Medical College for taking admission and was provisionally admitted with direction to submit his original documents at a later date for the purpose of taking regular admission and joining the course allotted to him. While matter stood thus he was selected against Orissa State quota and in course of counselling as his choicest discipline, i.e. Pediatrics, was available at the SCB Medical College, Cuttack he opted for the same and took admission. According to opposite party No. 4, he had not taken final admission at B.J. Medical College, Ahmedabad nor did he attend any class at that college. His admission was only provisional and thus for all acts and purposes his last college was MKCG Medical College where he studied MBBS course. The original CLC issued by the MKCG Medical College was produced by him during P.G. counselling and the same was rightly accepted. Thus absolutely no illegality was committed in the matter of his admission. In the alternative it is averred that the Petitioner having ranked far below in the select list and having taken part in the counselling and having opted to take admission in the discipline of Medicine had no locus standi to file the Writ Petition.

6. This Court heard learned Counsel for the parties at length and perused the documents annexed to the respective pleadings. The only ground on which admission of opposite party No. 4 in P.G. course in Paediatrics discipline at the SCB Medical College is assailed is that the said opposite party having taken admission at B.J. Medical College, Ahmedabad, the authorities ought to have insisted on his CLC from the B.J. Medical College before allowing him to take admission in P.G. course in Paediatrics at the SCB Medical College, Cuttack. This submission of Mr. Mohanty, learned Counsel for the Petitioner, is strongly repudiated by Mr. N.K. Misra, learned Counsel appearing for opposite party No. 4. According to Mr. Misra, opposite party No. 4 did not take final admission at Ahmedabad. He had only reported for admission at that college in consonance with the allotment made by the All-India Entrance Examination for P.G. Courses, 2007. He was advised to take provisional admission and time had been granted to him to produce all the documents in original for final admission. But then he did not avail of that opportunity as in the meanwhile he was selected under the Orissa State quota and as a seat was available in the discipline of his choice, i.e. Paediatrics, he took admission. He having not taken final admission at Ahmedabad, nor having prosecuted studies there, the authorities rightly accepted his CLC granted by the MKCG Medical College where he studied his MBBS course and which was the college where he studied last. Thus there was absolutely no illegality.

7. Fact remains, both the Petitioner and opposite party No. 4 had qualified in the P.G. Medical Selection, 2007, Orissa. The rank of opposite party No. 4 was "14" whereas that of the Petitioner was "23". In course of counselling the turn of

opposite party No. 4 came earlier to the Petitioner and a seat in Paediatrics discipline being available he opted for that. Thereafter by the time the turn of the Petitioner came all seats in Paediatrics discipline had been filled up. Out of other disciplines in which seat was available, the Petitioner opted for Medicine discipline. As stated earlier, both the Petitioner and opposite party No. 4 having taken admission in the respective disciplines allotted to them are now prosecuting their P.G. studies. According to the guidelines and principles formulated by the All-India Medical Council, the last date for taking admission in P.G. Medical Courses during the academic session in question was 31st May, 2007. The said date is long over. It has been held by the Supreme Court that after the cut-off date for taking admission is over, no student can either take fresh admission or change the discipline in which he would be prosecuting his studies. In view of such clear position, the Petitioner cannot be permitted to take admission in Paediatrics as on date. The contention of the Petitioner that opposite party No. 4 had illegally taken admission in P.G. course in Paediatrics discipline at the SCB Medical College without furnishing CLC from the college at Ahmedabad where he studied last cannot be accepted. The documents annexed to the counter affidavit as also other documents produced in course of hearing reveal that opposite party No. 4 had only taken provisional admission at Ahmedabad and time had been granted to him to produce all the original documents and take final admission. The said opportunity having not been availed of by him, the seat allotted to him at the said college got forfeited. Having not taken final admission at Ahmedabad nor prosecuted studies there, it should be presumed that the last college where opposite party No. 4 had studied was the MKCG Medical College, Berhampur where he had completed his MBBS studies. He had submitted the CLC issued by the MKCG Medical College and thus no illegality was committed. On merit also, as would be apparent from the affidavit filed by opposite party No. 3, the Principal, SCB Medical College-cum-Convener of P.G. Selection Committee, 2007, the rank of the Petitioner in the select list was far below the rank of opposite party No. 4 and during counselling all the seats in Paediatrics discipline had been filled up much before his turn came.

8. On a cumulative assessment of all the facts and circumstances as narrated in the foregoing paragraphs, this Court feels that no relief whatsoever can be granted to the Petitioner. This Court therefore dismisses the Writ Petition.