

(2016) 10 KAR CK 0046

In the Karnataka High Court

Case No : Writ Petition No. 53540 of 2016 (EDN-RES)

Dr. Vinod Kumar K.

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 07-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Indian Medical Council Act, 1956 — Section 20
Postgraduate Medical Education Regulations, 2000 — Regulation 14(1)(b)

Citation : (2017) 1 AirKarR 418

Hon'ble Judges : Mr. B. Veerappa, J.

Bench : Single Bench

Advocate : Sri. Ajith Anand Shetty, Advocate, for the Petitioner; Sri. N.K. Ramesh, Advocate, for the Respondent Nos. 1 & 2; Sri. Khetty, Advocate, for the Respondent No. 4; Smt. Pramodini Kishan, HCGP, for the Respondent No. 1

Final Decision : Allowed

Judgement

B. Veerappa, J. - Sri. N. K. Ramesh, learned counsel takes notice on behalf of Respondent No. 2. Smt. Pramodini Kishan, learned High Court Government Pleader takes notice on behalf of Respondent No. 1. Sri. Khetty, learned counsel is takes notice on behalf of Respondent No. 4.

2. The petitioner who is pursuing his post graduation course in "Orthopaedics" is before this Court for a writ of mandamus directing the respondents in general and to the 2nd respondent - University, in particular to get the petitioner's answer scripts evaluated by four individual examiners in accordance with the Regulation 14(1)(b) of the Post Graduate Medical Education Regulations, 2000 (PGME Regulations" for short) and to publish the results of such re-evaluation.

3. It is the case of the petitioner that he having opted to pursue higher studies, got himself enrolled for a post-graduation course in "Orthopaedics", upon completion of which, the petitioner would have earned a Master's Degree i.e., Doctor of Medicine (M.D.). This enrolment was in the month of June-2013 with

the 3rd respondent institution and it is at the end of three years of such course that a post-graduate student appears for a final examination, consisting of four papers viz., General Medicine Paper-1, Paper-2, Paper-3 and Paper-4. Accordingly, the University conducted examination in the month of July-2016, with the theory examination having commenced on 28.6.2016 and ending on 5.7.2016. The practical examination was held on 13.7.2016. The results were announced on 23.7.2016. The petitioner has cleared all the practical examinations. Insofar as theoretical portion Regulation-14 of the PGME Regulations framed by the 2nd respondent mandates a student to score a minimum of 40 marks out of 100 marks allocated in each of the four papers and to score an aggregated of not less than 50%. The petitioner had got through three papers, inasmuch as having been awarded 46% marks and he fell short of 50% aggregate. The University has announced the results in the official website of the 2nd respondent University. The petitioner being aggrieved by the award of marks, lesser than what he was entitled for, he is before this Court for the reliefs sought for.

4. I have heard the learned counsel for the parties to the lis.

5. Sri. Ajith Anand Shetty, learned counsel for the petitioner vehemently contended that the process of evaluation in the present case was in violation of Regulation 14(1)(b) of the PGME Regulations. The said provision mandates that the evaluation process was to be undertaken by a minimum of four Evaluate In the present case, the evaluation process was undertaken by two Examiners on the basis of the Notification dated 1.7.2015 issued by the 2nd respondent - University. Therefore the same is in violation of Regulation 14(1)(b) of the PGME Regulations.

6. Per contra, Sri. N.K. Ramesh, learned counsel for the 1st respondent fairly submits that in identical circumstances this Court in W.P. Nos.49749/16, 44342/2016 and W.P.No. 46632/2016 decided on 27th September, 2016 held that the Notification dated 1.7.2015 issued by the 2nd respondent - University is in violation of Regulation 14(1)(b) of the PGME Regulations and directed the 2nd respondent to get the answer scripts evaluated in accordance with the Regulation 14(1)(b) of the PGME Regulations.

7. Having heard the learned counsel for the parties, it is clear that the petitioner was pursuing post-graduation course in "Orthopaedics" and he has appeared for final examination consisting of four papers viz., General Medicine Paper-1, Paper-2, Paper-3 and Paper-4 and the Valuation slips issued by the Registrar Evaluation of the 2nd respondent University vide Annexures-D to G clearly indicate that only two Evaluators evaluated the papers of the petitioner instead of four Evaluators as contemplated under the provisions of Regulation 14(1)(b) of the PGME Regulations. Therefore the very impugned action of the respondents is in violation of the provisions of Regulation 14(1)(b) of the PGME Regulations.

8. In view of the aforesaid reasons, the Writ Petition is allowed. The respondents,

in particular the 2nd respondent is directed to get the answer scripts of the petitioner evaluated by a panel of four Evaluators in accordance with the provisions of Regulation 14(1)(b) of the Post-Graduate Medical Education Regulations, 2000 within a period of four weeks from the date of receipt of copy of this order and announce the results of the petitioner in accordance with law.